

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

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RODNEY D. PIERCE, et al,

Plaintiffs,

vs.

4:23-CV-193-D-RN

THE NORTH CAROLINA STATE BOARD OF ELECTIONS, et al,

Defendants.  
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FEBRUARY 7, 2025  
BENCH TRIAL - DAY 5  
BEFORE THE HONORABLE JAMES C. DEVER III  
UNITED STATES DISTRICT JUDGE

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Official Court Reporter  
United States District Court  
Raleigh, North Carolina  
Stenotype with computer-aided transcription

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## A. Taylor - Cross-Examination

1 (Friday, February 7, 2025, commencing at 9:00 a.m.)

2 **P R O C E E D I N G S**

3 THE COURT: Good morning. Just with a reminder that  
4 everybody doesn't have to use all the time they have left, but  
5 we will finish today.

6 I have it that the Plaintiff has 126 minutes left  
7 and the Defense has 246 minutes left, which we will be  
8 finished today.

9 You may continue the cross-examination, Mr. Jones.

10 MR. JONES: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. JONES:

13 Q. Good morning, Dr. Taylor.

14 A. Good morning.

15 Q. You recall yesterday afternoon when we broke, we were  
16 talking about the Nation's Report Card which is another  
17 measure of North Carolina student achievement in fourth and  
18 eighth grade reading and math, and we had looked at the  
19 document for fourth grade math. Do you recall that?

20 A. I do.

21 Q. Okay. Let's pull up -- we are going to see if we can do  
22 this quickly. Pull up Plaintiffs' Exhibit 202.

23 Do you recognize this document as a true and correct copy  
24 of the similar Nation's Report Card snapshot for North  
25 Carolina eighth grade math scores?

## A. Taylor - Cross-Examination

1 A. I do.

2 Q. I'm hoping not to have to go through all the numbers, but  
3 you agree that across the board for every measure that is  
4 reported here, White North Carolina eighth graders perform  
5 better than Black North Carolina eighth graders in math  
6 according to all of the data points?

7 A. All of the White scores are higher than all of the Black  
8 scores.

9 MR. JONES: Can we pull up Plaintiffs' Exhibit 203.

10 BY MR. JONES:

11 Q. Dr. Taylor, do you recognize this as the similar Nation's  
12 Report Card for North Carolina 2022 grade four reading?

13 A. Yes.

14 Q. And for every data point recorded here, there is a racial  
15 disparity with White fourth graders scoring better in reading  
16 than Black fourth graders in reading in North Carolina across  
17 the board?

18 A. Yes.

19 Q. 44 percent of White North Carolina fourth graders are at  
20 or above the NAEP proficient level compared to only 17 percent  
21 of Black North Carolina fourth graders?

22 A. I'm sorry. I'm sorry. Yes. At the proficient level,  
23 yes.

24 MR. JONES: Can we pull up Plaintiffs' Exhibit 204,  
25 please.

## A. Taylor - Cross-Examination

1 BY MR. JONES:

2 Q. Do you recognize this as a similar report, the Nation's  
3 Report Card snapshot, for grade eight reading in North  
4 Carolina?

5 A. I do.

6 Q. And again, the data here show that for every data point  
7 there is a racial disparity in the test scores with White  
8 eighth graders in North Carolina scoring higher and performing  
9 better in reading than Black eighth graders in North Carolina?

10 A. Yes.

11 Q. That's all the Nation's Report Card data that you looked  
12 at for North Carolina that was grade four math and reading and  
13 grade eight math and reading, correct?

14 A. For North Carolina, yes.

15 Q. And focused on North Carolina, just North Carolina, all  
16 of the data you looked from the Nation's Report Card, 2022,  
17 grade four reading and math, grade eight reading and math, all  
18 of them show that in North Carolina there are racial  
19 disparities in the test scores with White students  
20 outperforming Black students by every measure reported by the  
21 Nation's Report Card, correct?

22 A. Yes, when I was just focused on North Carolina.

23 Q. Another dataset you looked at and that Dr. Burch looked  
24 at was the Wisconsin -- University of Wisconsin's Population  
25 Health County reports. Do you recall that?

## A. Taylor - Cross-Examination

1 A. Yes.

2 Q. And you recall Dr. Burch created -- let me ask you this:  
3 That data allows us to look at test scores for White and Black  
4 students in specific counties in North Carolina, right?

5 A. It does.

6 Q. And both you and Dr. Burch looked at the 11 counties, the  
7 Black-Belt counties?

8 A. Correct.

9 Q. And those data also show a racial gap in educational  
10 attainment with White students outperforming Black students  
11 across the board; do you recall that?

12 A. Yes. Within the 11 counties, yes.

13 MR. JONES: Can we pull up Dr. Burch's opening  
14 report which is Plaintiffs' Exhibit 21 and put figures 2 and 3  
15 side-by-side.

16 BY MR. JONES:

17 Q. Dr. Taylor, you recall these figures from Dr. Burch's  
18 report where she was reporting the Black and White reading and  
19 math scores for third grade from the county health rankings?

20 A. Yes.

21 Q. And you don't dispute any of the numbers here, correct?

22 A. No, I do not dispute them.

23 Q. Okay. You wrote in your report on page 11 -- I'll read  
24 it: A more comprehensive look -- this is near the top.

25 A more comprehensive look at the same county-level data

## A. Taylor - Cross-Examination

1 presented by the University of Wisconsin Population Health  
2 Institute's county rankings, however, shows that the racial  
3 gap for third graders in these counties is relatively small.  
4 The average for the 11 counties is .63 points for reading and  
5 .5 points for math.

6 Did I read that correctly?

7 A. You did.

8 Q. All you meant there by relatively when you said,  
9 "relatively small," is that the racial gap between White and  
10 Black students in these 11 counties is relatively small in  
11 comparison to other urban counties in North Carolina where the  
12 racial gap is even larger, correct?

13 A. Correct.

14 Q. Okay. So but for these 11 counties, having the average  
15 Black child in third grade be almost two-thirds of a year  
16 behind the average White child in reading, you agree that in  
17 absolute terms that is a large gap, correct?

18 A. Yeah. I mean, yeah, possibly. In relative terms, as I  
19 said, it's smaller; but in absolute terms, I think you can  
20 make an argument that is the case, yes.

21 Q. Do you recall that you testified at deposition that it  
22 was a large gap?

23 A. Like I said, yeah. I mean, it's possible that I did,  
24 yes.

25 Q. Okay. Why don't I refresh your recollection just to be



## A. Taylor - Cross-Examination

1 sure.

2 MR. JONES: Can we pull up Dr. Taylor's deposition  
3 please and go to page 99. Can we blow up lines 3 through 18.

4 BY MR. JONES:

5 Q. And I asked you -- I'm sorry. 3 through --

6 A. Yes. I get it, yes. Just in absolute terms, yes.

7 Q. Yes --

8 A. You are correct in absolute terms I -- just in absolute  
9 terms that is a big, tremendous troubling racial gap.

10 Q. It's a large gap; it's not a small gap, right?

11 A. A big gap would be a large gap.

12 Q. Okay. Great. And we were talking there --

13 MR. JONES: You can pull that down. Thank you.

14 BY MR. JONES:

15 Q. We were talking in that Q and A at the deposition about  
16 reading scores.

17 You would also agree that Black children in North  
18 Carolina being half a year behind White children just at the  
19 third grade when the kids have only been in school for a few  
20 years, that's a large gap that's regrettable and troubling and  
21 not good, right?

22 A. It -- it's regrettable in the sense of we want the gap --  
23 we would want to bring the Black students up to the White  
24 students and not close the gap by bringing the White students  
25 down to the Black students, yes.

## A. Taylor - Cross-Examination

1 Q. You agree that the gap in the 11 Black-Belt counties  
2 between Black and White students in third grade math is pretty  
3 large, right?

4 A. But that's a qualifier in the absolute sense I think I  
5 said in the deposition that it's large, we've agreed here it's  
6 large. Relative to other things it is not, comparable data is  
7 not; but in absolute terms, as I said -- as I said in the  
8 deposition, I sort of found that troubling, yes.

9 Q. Okay. And when you say, here again, that relatively  
10 speaking it's not large, you mean, again, the same thing that  
11 we discussed before, just that the racial disparities in these  
12 11 Black-Belt counties is relatively not as large as the even  
13 larger Black-White racial student achievement gap in North  
14 Carolina's urban counties, right?

15 A. Eleven largest which are urban, yes.

16 Q. Okay. Thank you.

17 Okay. Let's talk about socioeconomic indicators. Both  
18 you and Dr. Burch analyzed a series of socioeconomic  
19 indicators to evaluate the existence of racial disparities,  
20 correct?

21 A. Yes.

22 Q. And those were unemployment, household income, poverty  
23 and homeownership, correct?

24 A. I did not do homeownership, but I did the others, yes.

25 Q. Let's start with -- for starters, you agree that those

## A. Taylor - Cross-Examination

1 socioeconomic factors, unemployment, income, and poverty  
2 affect political participation, meaning they affect voting  
3 behavior, right?

4 A. Yes. The extent to which it does is -- obviously varies  
5 greatly across people in groups, and we can argue precise  
6 amounts. But it does have a material effect, most social  
7 science research shows.

8 Q. And directionally, the understanding is that people who  
9 are not unemployed, people who are not impoverished and, in  
10 general, people with higher household incomes tend to turn out  
11 and vote more than people who are unemployed, impoverished, or  
12 with lower household incomes, right?

13 A. Yes. And all those three things are obviously related.

14 Q. Okay. Let's talk about the disparities in unemployment.  
15 Black unemployment in North Carolina is higher than White  
16 unemployment, correct?

17 A. Correct.

18 Q. County-level unemployment rates in the Black-Belt  
19 counties, those 11 counties, are higher for Black residents  
20 than White residents there as well, correct?

21 A. Correct.

22 Q. And historically, you agree there has been discrimination  
23 against Black North Carolinians in the area of employment,  
24 correct?

25 A. Historically, yes.

## A. Taylor - Cross-Examination

1 Q. Let's talk about income. You agree that the data shows  
2 that there is a racial disparity between Black and White North  
3 Carolinians in terms of median household incomes with White  
4 households having higher median household income than Black  
5 households, correct?

6 A. Yes.

7 Q. And that was true in both of the data points that you  
8 looked at in both in 2022 and 2012, correct?

9 A. Yes.

10 Q. Both the numbers that Dr. Burch reported regarding median  
11 household income and the numbers that you reported regarding  
12 median household income in North Carolina show that racial  
13 disparity between Black and White North Carolinians, right?

14 A. Yes.

15 Q. And in each instance the difference between White and  
16 Black household income in North Carolina in both 2012 and  
17 2022, according to your report and the data Dr. Burch  
18 reported, is ranging from about \$18,400 to a little over  
19 \$20,000, correct?

20 A. Yes. In dollar -- raw dollar terms, yes.

21 Q. Another way to measure that is as a percent. So taking  
22 2022, White median household income in North Carolina is  
23 45 percent higher than Black median household income, correct?

24 A. So the numbers -- so you're talking about Black versus  
25 White in 2022 in North Carolina?

## A. Taylor - Cross-Examination

1 Q. Correct.

2 A. So the Black -- the Black figure I report is 50059 and  
3 the White figure is 67481.

4 So what's that? Roughly 17430. Whatever 17430 is of  
5 67481 would be the percentage.

6 Q. Okay. Let me see if I can refresh your recollection  
7 because we talked about this at the deposition.

8 My question, this is on page 150 of the deposition,  
9 another way to measure it is as a percent. So let's take 2022  
10 as an example. White median household income in North  
11 Carolina is 47 percent higher than Black median household  
12 income in North Carolina, right?

13 And your answer was: In 2022, yes.

14 Do you recall that -- did I read that correctly?

15 A. Yes, I did. I mean, 17 of 67481 is less than 45 percent.  
16 It's a little bit less, but that's what I said in deposition.

17 Q. In 2012 White median household income was 58 percent  
18 higher than Black median household income, correct?

19 A. So the figures that I have -- you're talking about 2012  
20 for -- in North Carolina. Sorry. Sorry. Let me go back to  
21 the previous answer.

22 Yes, it might be closer to 45. I said -- I quoted the  
23 national figures. The state figures were 31650 and 46450, so  
24 it's like 15,000 out of -- so it's closer to 45 percent. I'm  
25 sorry. I read the wrong figures in the previous answer.

## A. Taylor - Cross-Examination

1       So it's more consistent with what I said at the  
2 deposition.

3       And this question has to do with the 2012 figures and it  
4 is Black versus White in North Carolina, was that the  
5 question?

6 Q.    Yes.

7 A.    Okay.  So in -- in 2012, the Black figure was 33764,  
8 right?  So it increased -- and in North Carolina it was 31650  
9 for the -- sorry.  The U.S. median household income in 2022  
10 was -- in -- so in 2012, this is the U.S. --

11 Q.    Dr. Taylor, I'm going to ask you to slow down while  
12 you're reading.  I see our court reporter --

13 A.    Yes.  I'm sorry.  I'm reading to myself.

14 Q.    You're welcome to read it to yourself if you want.

15       The answer you gave at the deposition is also on the  
16 screen if we just avoid calculating.

17 A.    Yes.  Yes.  Yes.

18 Q.    I'd like to just make a clean record on this, because  
19 there was a lot of back-and-forth there.  So I'm going to ask  
20 you two fresh questions which hopefully will be  
21 straightforward.

22       In 2022, which we were talking about before, White median  
23 household income in North Carolina was 45 percent higher than  
24 Black median household income, correct?

25 A.    Roughly, yes.

## A. Taylor - Cross-Examination

1 Q. Okay. And in 2012, White median household income in  
2 North Carolina was roughly 58 percent higher than Black median  
3 household income, correct?

4 A. Roughly, yes.

5 Q. Okay. And we talked earlier about historical  
6 discrimination against Black people in employment in North  
7 Carolina.

8 You agree there also has been historically discrimination  
9 against Black people in employment elsewhere in the country,  
10 right?

11 A. Correct.

12 Q. Let's talk about poverty. You and Dr. Burch both looked  
13 at poverty rates, correct?

14 A. Yes.

15 Q. And you agree that the data Dr. Burch looked at and the  
16 data you looked at both show racial disparities in poverty  
17 with Black North Carolinians experiencing higher rates of  
18 poverty than White North Carolinians, correct?

19 A. Yes.

20 Q. And we can pull it up if you want to, but do you recall  
21 that Dr. Burch reported specific figures for both Black and  
22 White poverty rates on a statewide basis and in the 11  
23 Black-Belt counties, and you didn't dispute any of her  
24 numbers, correct?

25 A. Correct.

## A. Taylor - Cross-Examination

1 Q. Okay. Let's talk about homeownership. This is the  
2 issue -- homeownership is the issue that Dr. Burch analyzed  
3 but you did not, correct?

4 A. Correct.

5 Q. And Dr. Burch found that there was a racial disparity  
6 between Black and White North Carolinians with respect to  
7 homeownership. She reported specific numbers from the  
8 five-year ACS data, and you agree with those numbers, correct?

9 A. Yes.

10 Q. And speaking of homeownership, you agree that  
11 historically there's been discrimination against Black North  
12 Carolinians in mortgage lending, correct?

13 A. Yes. As with Black Americans across the country.

14 Q. Okay. Thank you.

15 Let's talk about health. You agree that Black North  
16 Carolinians have lower life expectancy than White North  
17 Carolinians, correct?

18 A. I do.

19 Q. And life expectancy is a general measure of overall  
20 health of a population, correct?

21 A. Yes. It's a pretty good indicator.

22 Q. Black North Carolinians have higher infant mortality than  
23 White North Carolinians, right?

24 A. Yes. I didn't look into that, but Dr. Burch did, if I  
25 remember correctly, and that is correct.



## A. Taylor - Cross-Examination

1 Q. And you agree with Dr. Burch's findings and figures on  
2 that issue, correct?

3 A. Yes.

4 Q. Okay. The racial disparities in life expectancy that we  
5 were talking about, those exist both at the statewide level  
6 and the county level in the 11 Black-Belt counties, correct?

7 A. Not to the same extent in the Black-Belt counties as they  
8 do in the state as a whole, but there are racial disparities  
9 in both, correct.

10 Q. In absolute terms, there are racial disparities between  
11 Black and White North Carolinians in life expectancy at both  
12 the statewide level and the county level, correct?

13 A. In both the counties and statewide the White life  
14 expectancy is longer than the Black life expectancy, yes.

15 Q. Dr. Burch also looked at rates of cancer and diabetes and  
16 found that incidence of those diseases is higher among Blacks  
17 North Carolinians than White North Carolinians, and you agree  
18 with her findings on that, correct?

19 A. Yes.

20 Q. And Dr. Burch also looked at health insurance coverage  
21 and found that there was a racial disparity with Black North  
22 Carolinians having lower rates of health insurance than White  
23 North Carolinians, and you agree with her data and findings on  
24 that issue, correct?

25 A. Yes. Although she means private health insurance, I'm

## A. Taylor - Cross-Examination

1 assuming. I can't remember. Does she mean private health  
2 insurance? Outside of government-supplied insurance.

3 Q. Okay. Let's just -- I'll refresh your recollection with  
4 the deposition.

5 MR. JONES: Can we pull up the deposition page 175,  
6 and blow up lines 12 through 18, please.

7 BY MR. JONES:

8 Q. Referring to Dr. Burch here, I asked you: She also  
9 looked at health insurance coverage and found that 9.1 percent  
10 Black residents of North Carolina are uninsured compared to  
11 6.4 percent of White North Carolinians. You saw that in her  
12 report, had the opportunity to check her source, which is ACS  
13 five-year estimates. You agree with her data?

14 And your answer was yes.

15 That was -- that was truthful testimony, correct?

16 A. Yes.

17 MR. JONES: Okay. You can pull that down.

18 BY MR. JONES:

19 Q. And all of these health-related metrics, life expectancy,  
20 statewide in the Black-Belt counties, infant mortality,  
21 incidence of cancer, incidence of diabetes, health insurance  
22 coverage, in every single one of these health-related metrics  
23 there is a racial disparity with White North Carolinians being  
24 better off than Black North Carolinians, correct?

25 A. In absolute terms, yes.

## A. Taylor - Cross-Examination

1 Q. You recall Dr. Burch commented on lack of access to  
2 nutritious foods, and specifically something called food  
3 deserts that's reported by the USDA.

4 A. I do.

5 Q. And you had, in your report, lodged a criticism or a  
6 question about Dr. Burch's initial findings on food deserts  
7 and whether the existence or location of food deserts was  
8 correlated to race.

9 Dr. Burch addressed that issue in her rebuttal report,  
10 and you agree with her finding that, in fact, food deserts are  
11 significantly more prevalent in rural census tracts that have  
12 majority-Black populations than rural census tracts that have  
13 majority-White populations, correct?

14 A. Yes. I didn't do the analysis. She did that in the  
15 rebuttal report. And again, I don't have -- I think both of  
16 what we said could be true. I -- because I was looking at  
17 counties and she was looking at census tracts, but I don't  
18 have any reason to disagree with that.

19 Q. And you agree that health affects voting participation in  
20 the sense of voting behavior?

21 A. Not as much as education and, you know, obviously there  
22 can be unhealthy people who are educated and uneducated, but  
23 these things tend to be correlated with one another, yes.

24 Q. In absolute terms, health affects voting and  
25 directionally healthier people are going to be more likely to

## A. Taylor - Cross-Examination

1 vote; unhealthy people less, that's the direction?

2 A. I haven't seen any research that takes into account  
3 health. Certainly, education, as I mentioned earlier on, and  
4 income; but I haven't seen anything that would say -- where  
5 you'd ask a respondent, how healthy are you? Or do you have  
6 cancer or not? And then look at -- whether -- asked them  
7 whether they had voted or not.

8 Certainly, to the extent that, as we noted, health is  
9 related to education and income, then you would find a  
10 relationship between them; but off the top of my head, I'm not  
11 aware of any research that directly shows that.

12 Q. Okay. We're going to come back to that, because I need  
13 to find the page where I asked you that at deposition.

14 Let's talk about criminal justice involvement.

15 Both you and Dr. Burch analyzed criminal justice  
16 involvement, correct?

17 A. Correct.

18 Q. And you agree that criminal justice involvement, like  
19 education and income, poverty, health, you agree that criminal  
20 justice involvement has been shown to affect voting behavior,  
21 correct?

22 A. Yes.

23 Q. And you're familiar with research showing that criminal  
24 justice involvement affects voting behavior even beyond the  
25 term of incarceration in a state like North Carolina where the

## A. Taylor - Cross-Examination

1 person is prohibited from voting while in prison?

2 A. I wouldn't be able to cite you any, but my sense is much  
3 more so than -- direct relationship much more so than health.  
4 But, again, these things are -- as you know, these things are  
5 highly correlated with one another.

6 MR. JONES: Okay. Let's pull up page 196 of the  
7 deposition. Can we blow up lines 8 through 16 please.

8 BY MR. JONES:

9 Q. I asked you: Are you also familiar -- so that's  
10 certainly true. Beyond that, are you also familiar with  
11 research showing that criminal justice involvement has been  
12 shown to affect voting behavior even beyond the term of  
13 incarceration in a state where the person is prohibited from  
14 voting while in prison?

15 And your answer was: Yes. In fact, Dr. Burch is  
16 probably one of the top experts on this particular subject  
17 matter -- this specific subject matter.

18 That was your answer at the deposition, and that was  
19 true, correct?

20 A. Yes. It is true. That's one thing that Dr. Burch does,  
21 yes.

22 Q. You agree that there are racial disparities in various  
23 forms of criminal justice involvement in North Carolina  
24 including arrests, incarceration, and people serving a  
25 sentence on post-release supervision of some form, correct?

## A. Taylor - Cross-Examination

1 A. Yes. I only report incarceration, but yes.

2 Q. So just to recap, we talked about education,  
3 socioeconomic factors such as employment, income, and poverty;  
4 health factors, including health outcomes and health  
5 insurance; and criminal justice involvement; and you agree  
6 that in all those areas in North Carolina, there are racial  
7 disparities between Black and White citizens with White  
8 citizens uniformly doing better than Black citizens, correct?

9 A. In the absolute sense, yes.

10 Q. Okay. You're familiar with academic research that has  
11 found that racial disparities in education that exists today  
12 are owing at least in part to the history of discrimination in  
13 education going back to legal school segregation, correct?

14 A. So you're saying differences in racial -- racial  
15 differences in education today which affect voting behavior  
16 are to some extent a function of the de jure segregation of  
17 the pre-1970s?

18 There's three things here; the outcome variable is voting  
19 behavior. The independent variable is education gaps between  
20 Black and White, and you're saying that the education gap at  
21 the time of the observation is a function of discrimination,  
22 segregation from 40 years earlier, or something like that?

23 Q. I'll just refresh your recollection from the deposition.

24 MR. JONES: Can we pull up page 124 and blow up  
25 lines 8 through 15 please.

## A. Taylor - Cross-Examination

1 BY MR. JONES

2 Q. I asked you: You're familiar with academic research that  
3 has analyzed this question and has found that racial  
4 disparities in educational existence that exist today are  
5 owing at least in part to the history of discrimination in  
6 education going back to legal school segregation?

7 And your answer was. There are researchers who find that  
8 and state that, yes.

9 That was your testimony at deposition, and that was true  
10 testimony, correct?

11 A. Yes. And then the question you asked me now is slightly  
12 different because it was about voting behavior, but didn't you  
13 say that the racial disparities that -- in education that  
14 caused --

15 THE COURT: He'll ask you another question.

16 THE WITNESS: Sorry, Your Honor.

17 BY MR. JONES:

18 Q. You are familiar with academic research that has found  
19 that in the American South racial disparities in educational  
20 attainment today are owing in part to the history of official  
21 discrimination against Black people in education going back to  
22 legal school segregation, correct?

23 A. Yes.

24 Q. You are not disputing that in North Carolina and other  
25 states the racial disparities that exist in education today

## A. Taylor - Cross-Examination

1 with White students consistently performing better than Black  
2 students on a variety of educational metrics, that that  
3 disparity exists in part because of the history of official  
4 discrimination; you're not contesting that, correct?

5 A. I am not contesting that.

6 Q. You are not aware of any research that finds that the  
7 racial gaps that exist in educational attainment today in  
8 North Carolina or the south or anywhere in the United States  
9 are not due, at least in part, to the history of official  
10 discrimination against Black people in education, correct?  
11 You're not aware of any such research?

12 A. I'm not aware of research that says that they're not the  
13 product of that, yes. Correct.

14 Q. Thank you. So in North Carolina there's been a history  
15 of discrimination against Black people in education. And  
16 today we have observed racial disparities between White and  
17 Black North Carolinians in education with White North  
18 Carolinians consistently performing better than Black. Both  
19 of those things are true, correct?

20 A. They are.

21 Q. And you understand that on a national level as well there  
22 has been historical discrimination in the United States  
23 against Black people in education; and from the data you  
24 reported in this case, there are also racial disparities in  
25 educational attainment today between Black and White Americans



## A. Taylor - Cross-Examination

1 on a national basis as well, correct?

2 A. Yes.

3 Q. Okay. You are not offering any opinion in this case  
4 about whether the racial disparities between Black and White  
5 Americans nationally are owing in part to the history of  
6 discrimination against Black Americans, again, on a national  
7 level, correct?

8 A. Can you say that again, please?

9 Q. Sure.

10 MR. JONES: Let's just pull up the deposition, then  
11 you can read it as well. On page 136, please. Can we blow up  
12 line 16 through 22.

13 BY MR. JONES:

14 Q. I asked you: Okay. So you are not offering any opinion  
15 in this case, then, about whether the racial disparities, the  
16 racial gaps between Black and White Americans nationally are  
17 owing in part to the history of discrimination against Black  
18 Americans, again, on a national level?

19 And you answered: That is correct. I'm not doing that.

20 That was your testimony at deposition, and that was true,  
21 right?

22 A. Correct.

23 Q. In your report you made a series of comparisons aiming to  
24 show that North Carolina compares favorably to the rest of the  
25 country or a nation as a whole with respect to the racial

## A. Taylor - Cross-Examination

1 disparities that we've been talking about, correct?

2 A. Correct.

3 Q. You did not use the same comparator in each instance when  
4 you were looking at education, unemployment, and income,  
5 correct?

6 A. No, no. Because there are various different ways of  
7 comparing.

8 Q. For educational testing, you compared test score gaps  
9 between Black and White North Carolinians to test score gaps  
10 nationally, correct?

11 A. Correct.

12 Q. But for unemployment, you did not look at gaps in  
13 unemployment between Black and White North Carolinians and  
14 compare that to gaps in unemployment between Black and White  
15 Americans nationally, correct?

16 A. Correct. It's just another way of expressing the  
17 condition of Black North Carolinians versus Black Americans  
18 generally.

19 Q. If you had made that comparison with respect to  
20 unemployment, it would show that the racial gap in  
21 unemployment in North Carolina is worse than the racial gap in  
22 unemployment between Black and White Americans on a national  
23 level, correct?

24 A. I don't know off the top of my head. Which year? When?

25 Q. Did you have a chance to review Dr. Burch's rebuttal

## A. Taylor - Cross-Examination

1 report where she responded to your report?

2 MR. JONES: Can we pull that up? It's PX117,  
3 please, and page -- can we put pages 6 and 7 side-by-side  
4 please.

5 BY MR. JONES:

6 Q. At the bottom of page 6, Dr. Burch, referring to you  
7 wrote: He ignores the comparison between the size of the  
8 racial gap in North Carolina and nationally perhaps because it  
9 is not favorable to North Carolina. For instance, in 2023  
10 nationally the Black unemployment rate was 1.66 times the  
11 White unemployment rate, but in North Carolina the Black  
12 unemployment rate was 1.85 times higher than the White  
13 unemployment.

14 Did I read that correctly?

15 A. Yes. But just coming at it two different ways.

16 Q. And you don't dispute Dr. Burch's numbers there, correct?

17 A. I have no reason to dispute them.

18 Q. So if you had used the same comparators for educational  
19 testing and unemployment; that is, a comparison between the  
20 Black-White racial gap for each of those metrics, it would  
21 have shown that North Carolina compares unfavorably to the  
22 country as a whole on unemployment, right?

23 A. If I had used a comparator that was a gap rather than  
24 comparing Blacks to -- Black Americans to Black North  
25 Carolinians, then according to this, yes, I would have.

## A. Taylor - Cross-Examination

1 Q. But you didn't -- you did not use the racial gap as the  
2 comparator for unemployment the way you did for educational  
3 testing; you used a different comparator for unemployment,  
4 which was just to compare statewide Black unemployment to  
5 North Carolina to the national Black unemployment rate, right?

6 A. Correct. Which is lower in North Carolina.

7 Q. Okay. Let's talk about your comparator for household  
8 income. For household income you didn't use either of the  
9 comparators that we've talked about so far. You didn't use  
10 the Black-White racial gap in household income the way that  
11 you did for education and you didn't use overall Black  
12 household income the way you did for unemployment. You used a  
13 different comparator, right?

14 A. Let me just -- this is page 13? While I do do a gap,  
15 it's just a -- the gap in North Carolina versus the gap in the  
16 country as a whole and the change in that gap between 2012 and  
17 2022.

18 Q. Right. The comparison that you drew between North  
19 Carolina and nationally is the change now between 2012 and  
20 '22 household income?

21 A. Yes. But, nevertheless, a gap.

22 Q. Okay. If you had used the same comparator for household  
23 income that you had used for unemployment, which would be just  
24 overall Black household income in North Carolina compared to  
25 overall Black household income nationally, North Carolina was

## A. Taylor - Cross-Examination

1 worse than the nation as a whole, right?

2 A. Yes. But what I might have done if that was the case is  
3 done a broader cost of living analysis.

4 Q. You didn't do that work?

5 A. But I didn't do that because I did this particular  
6 analysis.

7 Q. "This particular analysis" being comparing the change in  
8 Black household income over a 10-year period in North Carolina  
9 to the change in Black household income in the United States  
10 as a whole over the same 10 years, right?

11 A. Yes. The change between the overall and Black at 2012,  
12 change in the Black relative to change in overall from 2012 to  
13 2022.

14 Q. Okay. So you would agree that with respect to  
15 unemployment and household income the racial gaps in North  
16 Carolina are worse than the national average, right?

17 A. Sorry. Would you repeat the question, please?

18 Q. Sure. With respect to unemployment and income, the  
19 Black-White racial gaps in North Carolina are worse than the  
20 national average?

21 A. Today. Yes. But again, if I was measuring those, I  
22 might have looked at purchasing power, cost of living, et  
23 cetera. Because obviously the White household, median  
24 household income in North Carolina is a lot lower than it is  
25 nationally as well.

## A. Taylor - Cross-Examination

1        So, but, yes, I would agree with that, the headline  
2 figure for median household income, for the gap in -- in  
3 dollar terms, the gap in North Carolina is -- well, actually,  
4 yes. Yes.

5 Q.    Okay. There was a lot there. I'm going to ask the  
6 question again to see if we can make a clean record on this.

7        You agree that with respect to unemployment and income,  
8 the racial gaps, Black-White racial gaps in North Carolina are  
9 worse than the national average, correct?

10 A.    In terms of absolute, percentage terms for unemployment  
11 and dollar terms for median household income, yes.

12 Q.    Okay. Let's go on to talk about Senate Factor 8, which  
13 was another one of the Senate factors that you analyzed in  
14 your report, correct?

15 A.    I did.

16 Q.    And Senate Factor 8 -- I'm looking at page 6 of your  
17 report, if you have it in front of you at the top.

18 A.    Yes.

19 Q.    Senate Factor 8 is about whether there is a significant  
20 lack of responsiveness on the part of elected officials in  
21 North Carolina to the particularized needs of the members of  
22 the minority group, which in this case is Black North  
23 Carolinians, right?

24 A.    Yes, a particularized or Black residents of the 11  
25 counties.

## A. Taylor - Cross-Examination

1 Q. Okay. In your report at the top of page 6, you quoted a  
2 U.S. Department of Justice guidance document on Section 2 and  
3 you quoted them as saying that the relevant inquiry is quote:  
4 Whether there is a significant lack of responsiveness on the  
5 part of elected officials to the particularized needs of the  
6 members of the minority group. That's what you wrote in your  
7 report, and that's your understanding of Senate Factor 8,  
8 right?

9 A. Yes. So when we're looking at the state as a whole, the  
10 minority group would be Black North Carolinians; and when  
11 we're looking at the 11 counties, it would be Black residents  
12 of those 11 counties.

13 Q. Great. Okay. You don't know if there is such a thing as  
14 the particularized needs of the Black community in North  
15 Carolina statewide, correct?

16 A. As I testified yesterday, there is a common use of the  
17 term particularistic or particularism in political science,  
18 but we can't know exactly what individuals want definitively  
19 unless we ask them.

20 MR. JONES: Can we pull up page 200 of the  
21 deposition, please. Let's blow up lines 14 to 25.

22 BY MR. JONES:

23 Q. I asked you: Do you believe that you have an  
24 understanding of the particularized needs of the Black  
25 community in North Carolina statewide?

## A. Taylor - Cross-Examination

1 And your answer began: I don't really know if there is  
2 such a thing.

3 Did I read that correctly, and was that your testimony at  
4 deposition?

5 A. Yes. And that's consistent with the answer that I just  
6 gave. If you're unable to -- you know, I haven't asked them  
7 directly.

8 Q. Okay.

9 A. Or -- yes.

10 Q. And then can we go on to page 201. And in the third full  
11 paragraph -- I'm not going to read the full answer because it  
12 was long.

13 But in the third full paragraph, you said: But other  
14 than that, I'm not sure whether such a thing really exists.

15 Did I read that correctly? Was that your testimony at  
16 deposition?

17 A. Yes.

18 Q. And when you said, "such a thing really exists," you were  
19 referring to questioning -- saying you are not sure whether  
20 the particularized needs of the Black community in North  
21 Carolina statewide really exists, right?

22 A. Yes. So, as a said further down, you could do it on a  
23 geographic basis which, as I said, is consistent with the kind  
24 of view of particularism in social science and its meaning.

25 Q. Okay. To analyze this Senate factor, the first thing



## A. Taylor - Cross-Examination

1 that you did was to look at these Caughey-Warshaw data,  
2 correct?

3 A. Yes, Caughey-Warshaw.

4 Q. That data is all about how responsive a state's policy  
5 has been to policy preferences of the state's general  
6 population as a whole without regard to race. So all  
7 citizens, right?

8 A. Yes. And I included it, because I think a meaningful  
9 responsiveness to the general population is a necessary  
10 condition for meaningful responsiveness to a subgroup of the  
11 population that would be as large as North Carolina Black  
12 residents.

13 Q. The Caughey-Warshaw data doesn't tell us anything about  
14 the responsiveness of the state to the needs of people in the  
15 Black-Belt counties, to the needs of -- or to the needs of  
16 people in other counties in North Carolina, does it?

17 A. Well, to the extent that it's based upon public opinion  
18 polls, then it -- there are respondents within them who are  
19 Black and White and of other groups.

20 MR. JONES: Can we pull up pages 217 and 218 of the  
21 deposition and put them side-by-side. Sorry. That's 216 and  
22 217. I need 217 and 218 please. Thank you. Awesome.

23 BY MR. JONES:

24 Q. Let's see, the bottom of page 217, I asked you: The  
25 Caughey-Warshaw data doesn't tell us anything about the

## A. Taylor - Cross-Examination

1 responsive of the state to the needs of people in the  
2 Black-Belt counties -- and I think there's supposed to be the  
3 word "or" there -- to the needs of people in other counties in  
4 North Carolina, does it?

5 And your answer was: No. They are just consumed within  
6 the state as a whole.

7 That was your testimony at deposition, and it was true,  
8 correct?

9 A. Correct. Because the Black -- Black respondents are  
10 subsumed in the state as a whole.

11 Q. So if we wanted to understand the degree or extent to  
12 which the state has been responsive to the needs of people in  
13 the Black-Belt counties, the Warshaw-Caughey data wouldn't  
14 tell us anything about that, correct?

15 A. No. Only to the extent, though, that the general  
16 responsiveness to the broader population I believe is a  
17 necessary condition for a meaningful responsiveness to them.

18 Q. I asked you the exact same question at deposition, you  
19 can see it there at the top of page 218, and your answer was  
20 just a single word "no." Do you see that?

21 A. Not directly, no.

22 Q. Okay.

23 A. No. So I will go with my deposition on that. I'm not  
24 going to...

25 Q. I'm just going to make a clear record on this.

## A. Taylor - Cross-Examination

1       On page 218 of the deposition, I asked you: So if we  
2 wanted to understand the degree or extent to which the state  
3 has been responsive to the needs of people in the Black-Belt  
4 counties, the Warshaw-Caughey data wouldn't tell us anything  
5 about that?

6       And your answer was: No.

7       That was your deposition testimony, and it was true,  
8 correct?

9       A. It is true because -- sorry. I was getting confused with  
10 the other question where you include all other counties in  
11 North Carolina as well.

12       No, not the Black-Belt counties because these are  
13 statewide public opinion polls, so correct.

14       Q. If we wanted to even more specifically to understand the  
15 extent to which the state and its laws have been responsive to  
16 the needs of Black people in the Black-Belt counties specific  
17 to Black people in that region of the state, the  
18 Warshaw-Caughey data doesn't tell us anything about that  
19 either, right?

20       A. No. And again, they are -- as I testified in the  
21 deposition -- you have it up there -- they are subsumed in an  
22 estimate of the views of the general population of the state.

23       Q. When you concluded that North Carolina does okay in  
24 response to the needs of its general population, including all  
25 citizens of all races, not specific to Black people compared

## A. Taylor - Cross-Examination

1 to other states, that's the full extent of what you offered on  
2 this point, correct?

3 A. Yes.

4 Q. Okay. The other work you did on Senate Factor 8 was to  
5 identify a bunch of government expenditures in the 11  
6 Black-Belt counties, right?

7 A. Correct.

8 Q. You did not do any analysis that compares the funding  
9 items that you listed to the Black-Belt counties to funding in  
10 any other part of the state, correct?

11 A. With the exception of the education funding, I think.

12 MR. JONES: Okay. Can we pull up page 214 of the  
13 deposition. Blow up lines 21 to 24.

14 BY MR. JONES:

15 Q. I asked you the same question that I just asked you: Did  
16 you do any analysis that compares the funding items that you  
17 listed to the Black-Belt counties to funding in any other part  
18 of the state?

19 And you answered: No, I didn't.

20 That was your testimony at deposition, and it was true,  
21 right?

22 A. Well, the report, I did. So, you know, obviously I  
23 forgot at the deposition or after that amount of time hadn't  
24 realized, but...

25 Q. The --

## A. Taylor - Cross-Examination

1 A. The report -- excuse me. Sorry.

2 THE COURT: You can finish.

3 THE WITNESS: The report is what it is and it has it  
4 in there. I think any objective reading of that part of the  
5 report would see that I did the local appropriations spending,  
6 a comparison of the Black-Belt states -- Black-Belt counties,  
7 excuse me, with the rest of the state.

8 I testified in deposition that I didn't. You know,  
9 there's a lot in the reports. I regret that. But the report  
10 has it in it. And I think, as I said, an objective reader of  
11 the report would say, "Taylor, you did it." So that hence --  
12 that's my explanation for the inconsistency.

13 BY MR. JONES:

14 Q. You do not know how the funding that you listed to the  
15 Black-Belt counties is determined, whether it's on a per  
16 capita basis or some other mechanism, correct?

17 A. The -- the state -- there are state supplements and they  
18 go to -- they go to not -- they are low wealth and they are  
19 small county. So the small-county supplements are a product  
20 of the population size of the counties.

21 MR. JONES: Okay. Can we pull up pages 214 to 215  
22 of the deposition, please.

23 BY MR. JONES:

24 Q. This is not my most artful deposition question, but I  
25 asked you: Do you know how the funding that you have listed

## A. Taylor - Cross-Examination

1 to the Black-Belt counties compares to -- well, first of all,  
2 do you know how funding is determined? Is it on a per capita  
3 basis? Do you know how it is determined?

4 And your answer began: No, and it goes on from there.

5 That was your testimony at the deposition and it was  
6 true, right?

7 A. We're talking -- I think we're talking about the other  
8 kind of spending. The list you -- you remember you just  
9 talked to me, Dr. Taylor, you list a load of expenditures to  
10 Black-Belt counties that admittedly, because there is no  
11 database on this, except for going -- OSBM has it, but you go  
12 through the budget and just pick things out as illustrations.  
13 I think that's what you're referring to here rather than the  
14 spending on education.

15 The spending on education is somewhat related to -- on a  
16 per capita basis because of the small-county supplement. The  
17 low-wealth supplement is not done on a per capita basis  
18 because that is a function of the wealth of the county.

19 Q. Okay. The government expenditures that you identified to  
20 the Black-Belt counties, you pulled those numbers from the  
21 2022 to 2023 appropriations legislation?

22 A. Yes. And I believe '23-'24 as well.

23 Q. And you agree there are lots of line items beyond the  
24 ones you listed in your report directing funding to lots of  
25 other places geographically spread across the state, correct?

## A. Taylor - Cross-Examination

1 A. Absolutely.

2 Q. And you have not done an analysis that compares the funds  
3 that were directed to the 11 Black-Belt counties to funds that  
4 were directed to other parts of the state, correct?

5 A. No. If only I could do so, if only the state had the  
6 kinds of records and data that the federal government does, I  
7 would have been able to do it, but you are correct.

8 Q. And you have not done that sort of comparison in any  
9 other sense or along any other lines comparing funding to the  
10 Black-Belt counties to funding to other counties in North  
11 Carolina, correct?

12 A. Correct.

13 Q. You just loosely said, look, I can't really do an  
14 extensive analysis here, but there are examples of  
15 particularized benefits that are directed to these geographic  
16 targets which, for our interest, are the 11 counties of the  
17 Black Belt, correct? That was the extent of your analysis  
18 here?

19 A. Correct. It had something in common with Dr. Burch's  
20 approach to the analysis by just focusing on North Carolina,  
21 but I don't have the comparison point. It's these -- just on  
22 their own without any comparison, correct.

23 Q. Let's talk about your analysis of Senate Factor 3, which  
24 involves voting practices or procedures that tend to enhance  
25 the opportunity for discrimination. That's your understanding

## A. Taylor - Cross-Examination

1 of Senate Factor 3?

2 A. Yes.

3 Q. On page 18 of your report of your analysis of Senate  
4 Factor 3, you wrote quote: North Carolina has basic election  
5 practices that are typical of the country.

6 Do you recall that?

7 A. Yes.

8 Q. So let's go back to what we were talking about earlier.  
9 Redistricting plans that the General Assembly enacted last  
10 decade in 2011, and if we start with the congressional  
11 districting plan, it was later struck down as a racial  
12 gerrymander against Black citizens by the U.S. Supreme Court,  
13 right?

14 A. Yes.

15 Q. But you know that before that congressional map was  
16 struck down as a racial gerrymander against Black citizens in  
17 North Carolina, that map was used in the congressional  
18 elections in 2012 and 2014, right?

19 A. Yes.

20 Q. Do you consider that to be a basic election practice  
21 that's typical of the country conducting congressional  
22 elections under a map that is a racial gerrymander against  
23 Black citizens in two back-to-back election cycles?

24 A. I'm not sure it's a voting practice. It's certainly an  
25 election-related matter, but it doesn't really affect the act



## A. Taylor - Cross-Examination

1 of voting.

2 So, for example, in Caughey, the Caughey analysis that I  
3 present, there are indicators, there are indicators of the  
4 health of democracy where they have -- so the Grumbach data,  
5 for example, has a lot on redistricting gerrymandering of  
6 various kinds.

7 But I think the Caughey is really focused on things  
8 like -- at least the large measure of the index is focused on  
9 things like the amount of early in-person voting, the extent  
10 to vote by mail, the -- whether there is same-day registration  
11 or not, whether there is voter identification requirements or  
12 not.

13 Q. Am I right in general terms that the Caughey data that  
14 you analyzed is measuring how easy it is for people to vote?

15 A. Yes. It's more of a sort of an ease of voting rather  
16 than a cost of voting, but -- because there's no financial  
17 cost involved obviously, but yes.

18 Q. So it would be fair to say, then, that based on your  
19 analysis of the Caughey data it was relatively easy for North  
20 Carolinians to vote in 2012 and 2014 in congressional  
21 districts that were racially gerrymandered against Black  
22 citizens?

23 A. I don't have the 2012 and 2014 figures, but North  
24 Carolina traditionally has been roughly in the middle. So to  
25 actually vote, to cast a vote, yes.

## A. Taylor - Cross-Examination

1 Q. We also discussed earlier the State House and State  
2 Senate maps that were enacted by the General Assembly in 2011,  
3 and significant portions of those maps also were later  
4 invalidated by the courts as illegal racial gerrymanders  
5 against Black people, correct?

6 A. Yes.

7 Q. Before the courts invalidated the State House and State  
8 Senate maps from 2011, those maps were used to elect members  
9 of the General -- the members of the General Assembly; again,  
10 maps that were later found to be illegal racial gerrymanders  
11 against Black people, they were used in the 2012 elections,  
12 2014 elections and the 2016 elections to elect all the members  
13 of the General Assembly who represented North Carolina for six  
14 years, right?

15 A. Yes. I think it's three cycles.

16 Q. And in all three of those rounds of elections, 2012, '14,  
17 and '16, the maps that were used to elect all the members of  
18 the General Assembly were later struck down as racial  
19 gerrymanders that diluted the voting power of Black people,  
20 right?

21 A. Yes. I don't recall a lot of the exact wording in the  
22 decision, but effectively, yes.

23 Q. Is it your position that forcing people to vote in  
24 racially gerrymandered districts that dilute the electoral  
25 influence of Black citizens doesn't affect the act of voting?

## A. Taylor - Cross-Examination

1 A. It affects -- it presumably affects the candidates that  
2 you have on the ballot, right? I mean, that's what a lot of  
3 the arguments in this case is about. It could do that,  
4 because if you don't live in the district you can't, you know,  
5 run. You could move into the district as a candidate.

6 But with regards to the actual physical act of voting by  
7 the voter, the district lines make absolutely no difference.

8 It's -- I think the argument, the center of the case is  
9 the -- what's on the ballot in front of you. And I'm not here  
10 to testify about that because I'm here to testify about Senate  
11 Factor 3, 5, 7, and 8, but the actual act of voting itself is  
12 unhindered.

13 Now, there might not be candidates on there that you'd  
14 like to vote for and so you don't go to vote, because you're  
15 like, well, it's Tweedledum and Tweedledee, I don't, you  
16 know -- but the actual is unaffected by redistricting.

17 Q. If you're a Black person and you live in a district  
18 that's racially gerrymandered to prevent you from having a  
19 reasonable opportunity to elect candidates of your choice, you  
20 might not vote at all, right?

21 A. You might not -- again, but people don't vote because  
22 they don't like the candidates all the time, or they don't  
23 vote because they don't think it's an important office. We  
24 see the drop-off tremendously, for example, turnout in  
25 presidential years than we do in midterms.

## A. Taylor - Cross-Examination

1 As a political scientist, I am guilty of skipping  
2 elections or skipping actual voting on the ballot. I did it  
3 in 2024 because I didn't like the candidates, but it didn't  
4 affect my ability to go and vote. It affects the choices that  
5 you have in front of you.

6 Q. You also analyzed Senate Factor 7 which involves the  
7 extent to which Black people have been elected in North  
8 Carolina, correct?

9 A. Yes.

10 MR. JONES: Can we pull up Dr. Taylor's report which  
11 is LD62 and put pages 16 and 17 side-by-side.

12 BY MR. JONES:

13 Q. Pages 16 and 17, starting with Roman Numeral IV, Black  
14 elected officials in North Carolina. This is the full extent  
15 of your analysis of Senate Factor 7 in this case, correct?

16 A. Yes. And actually, I missed one of the African American  
17 members of the North Carolina congressional delegation as of  
18 2022 in Representative Foushee, but yes.

19 Q. Okay. You talked about the congressional  
20 representatives, but you did not do any analysis of the racial  
21 composition of the congressional districts that elected the  
22 Black U.S. House members that you discussed here, correct?

23 A. No.

24 Q. And same for the North Carolina State House, you did not  
25 do any analysis looking at the racial composition of the State

## A. Taylor - Cross-Examination

1 House districts that elected Black representatives, correct?

2 A. Correct.

3 Q. And same for the State Senate, you did not do any  
4 analysis of the racial composition of the State Senate  
5 districts that elected Black senators that you discussed here,  
6 correct?

7 A. Correct.

8 Q. Dr. Burch did that analysis of the racial composition of  
9 those districts in her rebuttal report and her supplemental  
10 report. Did you have a chance to review that analysis by Dr.  
11 Burch?

12 A. Yes.

13 Q. Okay. And did you disagree with any of her findings?

14 A. That -- can you remind me of her exact findings?

15 Q. Sitting here today having reviewed and had the  
16 opportunity --

17 A. I don't -- yes. I don't have any reason to dispute that.  
18 Excuse me.

19 MR. JONES: No more questions.

20 THE COURT: Thank you.

21 Any redirect?

22 MS. RIGGINS: Very briefly, Your Honor.

23 Could we please pull up Plaintiffs' Exhibit 203,  
24 Mr. Williamson.

25

## A. Taylor - Redirect Examination

## 1 REDIRECT EXAMINATION

2 BY MS. RIGGINS:

3 Q. Dr. Taylor, do you recall looking at Plaintiffs' Exhibit  
4 203 with Mr. Jones earlier this morning?

5 A. Yes.

6 Q. I would like to draw your attention to the right-hand  
7 column here, the middle box that says, "Average Scores for  
8 State/Jurisdiction and the Nation (public.)

9 Do you see that, Dr. Taylor?

10 A. Yes.

11 Q. For 2022, is North Carolina -- is North Carolina score  
12 the same scores that of the nation?

13 A. Yes.

14 MS. RIGGINS: Thank you, Mr. Williamson.

15 BY MS. RIGGINS:

16 Q. Do you recall, Dr. Taylor, being asked several questions  
17 yesterday about segregation indexes and you asked by what  
18 measure?

19 A. Yes.

20 Q. Okay. And do you recall being showed a portion of your  
21 deposition yesterday where you answered: By that measure,  
22 yes?

23 A. I believe so.

24 MS. RIGGINS: Okay. Could we please take a look at  
25 pages 82 and 83 of Dr. Taylor's deposition.

## A. Taylor - Redirect Examination

1 BY MS. RIGGINS

2 Q. All right. Do you see lines 6 through 11 on page 83 that  
3 Mr. Jones directed to you yesterday?

4 A. I do.

5 Q. And then on page 82, do you see the question, lines 21  
6 through 24, that Mr. Jones was asking you about Dr. Burch's  
7 data, not your own?

8 A. I do.

9 MS. RIGGINS: Thank you, Your Honor. We have no  
10 further questions for Dr. Taylor.

11 I would like to move in some exhibits, if it's not  
12 too much trouble.

13 THE COURT: Okay. That's fine.

14 MS. RIGGINS: We would like to move in Legislative  
15 Defendants' Exhibit 62, which is Dr. Taylor's report, and  
16 Legislative Defendants' Exhibit 32, which was discussed  
17 briefly by Dr. Taylor yesterday.

18 THE COURT: They'll be received.

19 (Legislative Defendants' Exhibits No. 62 and 32 were  
20 admitted into evidence.)

21 MR. JONES: And I'd like to move in, Your Honor,  
22 Plaintiffs' Exhibits 200, 201, 202, 203, and 204.

23 THE COURT: They'll be received.

24 (Plaintiffs' Exhibits Nos. 200 through 204 were admitted  
25 into evidence.)

## D. Critchlow - Direct Examination

1 THE COURT: Thank you. Doctor. Please watch your  
2 step stepping down. There's a step up as you come off the  
3 witness stand and a step down through the gate.

4 The defense may call its next witness.

5 MR. LEWIS: Your Honor, the defense calls Dr. Donald  
6 Critchlow to the stand.

7 THE COURT: Hello, Doctor. Please watch your step,  
8 sir. There's a step down right near the witness stand.

9 DONALD CRITCHLOW,  
10 having been duly sworn, testified as follows:

11 THE COURT: Good morning, Doctor.

12 This lawyer at this table I think -- the pattern has  
13 been the lawyer at the edge of the table is the one who does  
14 the questioning, so I expect the pattern to continue here with  
15 this, the final witness.

16 MR. LEWIS: Your Honor, it's our understanding this  
17 is the last witness in the case and we're going to do our best  
18 to get him off by lunch.

19 MR. JONES: Correct. We have no rebuttal case.

20 THE COURT: Thank you.

21 You may question the witness.

22 MR. LEWIS: Thank you.

23 DIRECT EXAMINATION

24 BY MR. LEWIS:

25 Q. Good morning. Patrick Lewis on behalf of Legislative



## D. Critchlow - Direct Examination

1 Defendants.

2 Good morning, Dr. Critchlow.

3 A. Good morning.

4 Q. I'd like to display Legislative Defendants' Exhibit 61,  
5 just the first page.

6 Dr. Critchlow, what is this document?

7 A. It's my report dated August 16th, 2024.

8 Q. Thank you. And if we could turn to the appendix, Dr.  
9 Critchlow, on page 30 of this exhibit. Is this your  
10 Curriculum Vitae?

11 A. Yes.

12 Q. What is your educational background?

13 A. I went to San Francisco State University for my B.A.  
14 degree and then I completed my Master's and Ph.D. at  
15 University of California at Berkeley.

16 Q. Okay. Your Ph.D. is in what field?

17 A. U.S. History.

18 Q. Okay. And where are you employed?

19 A. Arizona State University at Tempe.

20 Q. What is your role at Arizona State?

21 A. I'm a full professor in Faculty of History and also  
22 Director of the Center for American Institutions.

23 Q. Are you tenured?

24 A. Yes.

25 Q. What is your specialty in history?

## D. Critchlow - Direct Examination

1 A. American political history.

2 Q. What is the study of American political history?

3 A. Well, it's quite inclusive, that would conclude  
4 campaigns, election, voter behavior, legislative promises and  
5 enactment, and policy -- and public policies.

6 Q. Okay. Do you teach courses on these topics?

7 A. Yes, I do.

8 Q. Have you published peer-reviewed academic research on  
9 these topics?

10 A. Yes. I think I've published nine refereed books which  
11 focus on American political history.

12 Q. Okay. Have you published any articles in addition to  
13 those books?

14 A. Yes.

15 Q. Do you edit any professional journals?

16 A. Yes. I edit a quarterly journal published by Cambridge  
17 University Press called Journal of Policy History.

18 Q. What does the Journal of Policy History focus on?

19 A. I'm sorry. Could you repeat that?

20 Q. What does the Journal of Policy History focus on?

21 A. Well, policy history, that includes political history  
22 too.

23 Q. Is political campaigning part of the study of political  
24 history?

25 A. Yes.

## D. Critchlow - Direct Examination

1 Q. In the course of your professional work, do you look at  
2 newspaper coverage of political campaigns?

3 A. Yes. Standard historical procedure.

4 Q. All right. Have you studied civil rights in the south as  
5 part of your academic work?

6 A. Extensively.

7 Q. Have you published on that subject?

8 A. Yes.

9 Q. Has your study included the Voting Rights Act of 1965?

10 A. Yes.

11 Q. Have you studied the role of race in American political  
12 campaigns?

13 A. Yes.

14 Q. Have you served as an expert witness in redistricting  
15 litigation?

16 A. Yes.

17 Q. And in the course of that expert work, have you analyzed  
18 Senate factors in your prior work?

19 A. Yes.

20 Q. Have you been accepted by courts as an expert in the  
21 field of history?

22 A. Yes.

23 MR. LEWIS: Your Honor, at this time we would tender  
24 the admission of Dr. Critchlow as an expert in the field of  
25 American history with a focus in political history.

## D. Critchlow - Direct Examination

1 THE COURT: Okay. You may proceed.

2 BY MR. LEWIS:

3 Q. All right. Let's return to your report, Dr. Critchlow,  
4 and I'd like to turn to page 4.

5 I understand that your role in this case was to respond  
6 to Dr. Burch. Can you summarize for the Court the aspects of  
7 Dr. Burch's report that you reviewed?

8 A. Yes. I particularly focused on Senate Factors 6 and 7.

9 Q. Okay. If we could turn to page 5 of your report. At the  
10 top of the page, do you list the general overall conclusions  
11 of your analysis in this case?

12 A. Yes, I do.

13 Q. And could you just very briefly summarize those top-level  
14 conclusions?

15 A. Yeah. I'll try to be brief. First of all, I -- over  
16 time since 1981, we've seen an increase in Black  
17 representation, elected representation in the North Carolina  
18 General Assembly. We see today North Carolina has substantial  
19 Black representation in the state legislature. Racial  
20 appeals -- and thirdly, racial appeals in state campaigns I  
21 concluded a rare. The focus of the majority of political  
22 campaigns, as might be expected, is as on taxes, education,  
23 economic development; in other words, bread-and-butter issues.  
24 And fourthly, the inclusion of issues such as border security,  
25 Chinese technology, public safety, and political campaigns in

## D. Critchlow - Direct Examination

1 North Carolina reflect public concern of the voters that are  
2 articulated by candidates.

3 Q. All right. Thank you, Dr. Critchlow.

4 So I'd like to start with your analysis of Dr. Burch's  
5 approach on Senate Factor 6, going to racial appeals. If we  
6 could turn to page 14 of your report.

7 Dr. Critchlow, have you reviewed the 1982 Senate  
8 Judiciary Committee report where the Senate factors were  
9 identified?

10 A. Yes.

11 Q. And does that Senate report clearly identify or define --  
12 excuse me -- what racial appeals are?

13 A. Yes. Mr. Lewis, it's a thousand-page document which I  
14 read; and in that thousand-page document, the Senate does not  
15 define either overt or subtle racial appeals.

16 Q. And your report on pages 14 to 15 goes on to describe  
17 some historical examples of racial appeals, you know, prior to  
18 that 1982 report. How do those examples help inform your  
19 understanding as a historian of the meaning of the term  
20 "racial appeals" in 1982?

21 A. Well, I think overt racial repeals were clearly  
22 understood in the public discourse as reflected in the  
23 senators' eyes. They had a number of -- people have a number  
24 of incidents of racial appeals, overt racial appeals. George  
25 Wallace's saying, you know, segregate -- running on

## D. Critchlow - Direct Examination

1 segregation now and forever. And then there were a series of  
2 other incidents of racial appeals across the country Yorty in  
3 LA, Rizzo in Philadelphia, which were on the public's mind,  
4 the senators' mind, and the general public.

5 Q. All right. If you could share the example of Sam Yorty,  
6 what was that example?

7 A. Yeah. He was trying to -- he was -- he said he was  
8 trying to make a political comeback and he said that Black  
9 people are really racist, they vote for Black people because  
10 they were Black. And this was a theme that he reactivated and  
11 it was in 1969, '73. In '73, he tried to bring it up against  
12 Thomas Brady, who was chief of police, a Black candidate, very  
13 well respected and Brady won that election doing very well in  
14 White districts.

15 Q. Okay. So you talk on page 15 of your report about code  
16 words and the examples of Presidents Reagan and Carter. Can  
17 you elaborate on that discussion of code words?

18 A. Yeah. Code words now becomes an issue in what are called  
19 subtle or implied racial appeals. So in 1980, a very famous  
20 example was Ronald Reagan's opening speech in Mississippi in  
21 which he appraised the states' rights, and that drew heavy  
22 criticism from the press as a code word to appeal to former  
23 George Wallace supporters.

24 By the way, I don't want to go on at length, but actually  
25 George Wallace voters went for Carter in that election.

## D. Critchlow - Direct Examination

1 Q. So if you were a southerner in 1980 and heard the term  
2 "states' rights," what was the understood meaning of that term  
3 in that time?

4 A. In 1980?

5 Q. Yes, sir.

6 A. It could mean two things. Reagan was accused by his  
7 opponents as using a code word, whether he was referring to  
8 federalism or not, the issue was -- accusation that it was a  
9 code word. And similarly, Carter was also -- faced his own  
10 problems in his race because he had to apologize for promising  
11 to preserve ethnic purity of neighborhoods. So code words  
12 become opportunities for opponents to attack the other  
13 candidate.

14 Q. Sure. When George Wallace used the term "states'  
15 rights," what was that in reference to?

16 A. Well, Wallace -- I don't think that was a code word. I  
17 think he was using it for appeal to White voters to maintain  
18 racial segregation.

19 Q. Okay. And --

20 A. He made that clear.

21 Q. So anyone hearing Wallace say, "states' rights" knew he  
22 meant opposition to integration; is that fair?

23 A. Yes. Given the time I think it was -- I think that was  
24 the obvious conclusion by voters who voted for him and against  
25 him.

## D. Critchlow - Direct Examination

1 Q. All right. So, Dr. Critchlow, with that introduction, I  
2 understand that you evaluated Dr. Burch's analysis of racial  
3 appeals in North Carolina in three main steps.

4 Can you identify what those three steps were?

5 A. At what page are you referring to?

6 Q. We're going to -- okay. We can turn to page 6, then, if  
7 that's helpful.

8 I'll ask the question again just for clarity of the  
9 record. I understand, Dr. Critchlow, you evaluated Dr.  
10 Burch's analysis of racial appeals in three main steps. Can  
11 you identify those?

12 A. Yes. In looking at her -- first of all, I looked at her  
13 incidence of racial appeals, which I think were 16; and then  
14 after looking at her examples, I wanted to -- I sought to  
15 develop a more objective methodology to look at racial appeals  
16 to see if they were pervasive in the state.

17 So the next step was to look at newspapers in aggregation  
18 and to pick some example -- to pick state races that would  
19 gain public attention. And then I wanted to look over time to  
20 see whether -- the extent of racial appeals in the campaigns.  
21 And finally after completing this analysis, which was  
22 objective, and to be replicated, I looked at the candidate --  
23 candidates and their issues that they were running on.

24 Q. Okay. All right. So, Dr. Critchlow, I'd like to start  
25 with that newspaper survey that you talked about. And I



## D. Critchlow - Direct Examination

1 believe we start that discussion up here on page 6. Why did  
2 you choose to conduct a newspaper survey for this analysis?

3 A. Because -- because newspapers are a good source for --  
4 the most ready source for looking at charges of racial appeals  
5 or charges of racism.

6 Newspapers are reporting what they see in the state and  
7 campaigns. And plus, they want to pick up issues such as  
8 racism, charges of racism, they are going to attract public  
9 attention and controversy and perhaps help sell newspapers or  
10 get more clicks. So newspapers are a very good source; in  
11 fact, the best source for finding these kinds of evidence in  
12 states. So I looked at state newspapers, state newspapers in  
13 particular.

14 Q. And is the use of a newspaper survey a standard  
15 methodology in the field of political history?

16 A. Yes.

17 Q. Does a newspaper survey allow a political historian to  
18 obtain a sense of what candidates wish to project to voters in  
19 a campaign?

20 A. Yes.

21 Q. Do those surveys also afford a sense of public opinion?

22 A. Yes.

23 Q. Do those surveys provide a sense of what was  
24 controversial or important to the public?

25 A. Yes.

## D. Critchlow - Direct Examination

1 Q. Returning to your methodology, Dr. Critchlow, how did you  
2 select what newspapers to review?

3 A. I used an online newspaper aggregator called  
4 newspaper.com. It's a well-known source used by scholars and  
5 others.

6 Q. And do you list the newspapers in your report that were  
7 included in your survey?

8 A. Yes.

9 Q. What date range did you use for your search?

10 A. Where are we looking? Well, I can answer. I don't need  
11 to -- I just want to make sure everybody is following along.  
12 I'm a teacher, so I make sure everybody is taking class notes.  
13 2008 to 2024.

14 Q. Okay. And when in 2024 did your search conclude?

15 A. Actually, I think in the deposition I said July, but it  
16 was actually a little early. So July -- June 2024, July 2024.

17 Q. Okay. So any news coverage that would have appeared  
18 after June or July would not have been incorporated into your  
19 work; is that right?

20 A. Yes.

21 Q. Okay. What election contests did you choose to look at  
22 for the survey?

23 A. Yes. Where are we on the page just to make sure so?

24 Q. You are - I think it's actually on the next page, but you  
25 can just answer.

## D. Critchlow - Direct Examination

1 A. Well, I think it's on page 9. But anyway, the -- I  
2 looked at races that I thought would attract the most  
3 attention. Those were the governor's race, Senate races, and  
4 then I looked at CD1, that incorporated SD1 and SD2.

5 Q. And this is on the third paragraph on page 6. But what  
6 search terms did you employ in your survey?

7 A. Yes. I used broad terms that I thought would be  
8 inclusive. Racism, which I think found 114 hits; and bigotry,  
9 which was followed up, I think we received 85 hits on that,  
10 many of them having to do with same-sex bathrooms; but then we  
11 followed up looking at each candidate, and issues. So that  
12 was the third part of the analysis.

13 Q. Okay. And if we turn to page 7, Dr. Critchlow, do you  
14 believe that your search terms were sufficient to allow you to  
15 conduct your newspaper survey?

16 A. Yes. They were quite broad, especially racism. I think  
17 a major point is that the -- my methodology could be  
18 replicated. It was objective and -- it was objective in its  
19 approach.

20 Q. Okay. And on this page in your report you reference the  
21 Jesse Helms' hands ad and a search you ran on it. Can you  
22 explain the relevance of that point?

23 A. What we wanted to -- when I began I wanted to see the  
24 accuracy of newspapers which I understood that we were going  
25 to be objective -- were going to be useable, but we looked at

## D. Critchlow - Direct Examination

1 the Jesse Helms' hands ad because also that was reported and  
2 given great attention by Professor -- excuse me -- Dr. Burch.

3 Q. Okay. So as I understand it, you got a lot of hits when  
4 you searched for "racism" in that ad; is that fair?

5 A. Over 900.

6 Q. You say in here on page 7 that charges of racism is  
7 politically potent. Can you explain what that means?

8 A. Yes. I think it's somewhat obvious. That when you make  
9 charges of racism today, whether overt or subtle, in a  
10 political campaign it's going to get a lot of attention and  
11 puts candidates on the campaign with them on the defensive.

12 Q. And is it your belief that newspaper would be  
13 incentivized to report on charges of racism in a campaign?

14 A. Yeah, for a variety of reasons actually.

15 Q. I understand there's been some disagreement in this case  
16 about how to define racial appeals. Does your methodology  
17 depend upon a specific definition?

18 A. Yes. One of the reasons that I developed this  
19 methodology is not only there could be -- I had a hypothesis,  
20 a question, and then I could test it, but it was also a  
21 methodology that was objective. It didn't rely specifically  
22 on a definition of overt or subtle racial appeals. It looked  
23 at newspaper reports of accusations of racism or racism in  
24 political campaigns. It was an objective measure that went  
25 beyond any kind of subjectively or scholarly debate or

## D. Critchlow - Direct Examination

1 courtroom debate over what a racial appeal is, overt or  
2 subtle.

3 Q. Okay. So is it fair to say, then, that your methodology  
4 is designed to pick up some measure of public or press  
5 reaction to messaging in political campaigns?

6 A. Yes. It would be in the public -- public arena through  
7 the -- through the newspapers.

8 Q. Okay. All right. So I'd like to talk about the results  
9 of this analysis.

10 So I'd like to turn to page 11, and you have on this page  
11 Table 2, which I will represent goes on to page 12 but we'll  
12 stick with this page for now.

13 Can you orient us to this table, Dr. Critchlow? What are  
14 we looking at here?

15 A. Yes. Well, you can see the offices that their candidates  
16 are running for in the first line of the table, you can see  
17 the candidates, and then you have the election year obviously.  
18 And then there are -- whether they won or lost, and then a  
19 series of issues that came up in the searches. So if there  
20 was a discussion of taxes, this could be in a campaign or  
21 debate, that was reported in the newspaper and so forth; and  
22 then if there were any charges of racism that appeared, we  
23 would mark that.

24 Q. Okay. All right. And then if we look at the top of the  
25 page which is up on your screen there, I see reports of

## D. Critchlow - Direct Examination

1 percentages of an analysis of the data you provided. What did  
2 you find were the issues that characterize these election  
3 contests?

4 A. Well, the candidates tended to speak of bread-and-butter  
5 issues in order to get votes. So many -- the major emphasis  
6 was on the economy followed by taxes and healthcare, as well  
7 as -- you know, then there would be other issues as well.  
8 Education would be of a concern as well.

9 Q. I understand. Okay. And so if a candidate had, you  
10 know, reports of issues coming up in the campaign, for  
11 example, a military issue, I could just look on this chart, I  
12 look for the little mark on the column and that's how -- and  
13 that's how I know you found that that was an issue that came  
14 up in that campaign?

15 A. Yes. And we provided the newspaper articles in the  
16 report and we provided those to the Plaintiff counsel and to  
17 Dr. Burch, if she wanted to examine the -- if they wanted to  
18 examine the results so it could be replicated.

19 Q. Okay. So I see here, Dr. Critchlow, that you have  
20 charges of racism checked for two campaigns. Can you identify  
21 what those two campaigns are?

22 A. They were for the governor's race in 2008 and the  
23 governor's race in 2012.

24 Q. Okay. And do you discuss the specifics of these examples  
25 in your report?

## D. Critchlow - Direct Examination

1 A. Yes, I do.

2 Q. I notice -- well, before I move on. And these are from  
3 more than a decade ago; is that fair?

4 A. Yes.

5 Q. I notice you didn't check the box for charges of racism  
6 for the Budd-Beasley campaigns for Senate in 2022.

7 You were present for Dr. Burch's testimony on Wednesday;  
8 is that correct?

9 A. Yes.

10 Q. And do you recall Dr. Burch discussing an ad run against  
11 Budd's opponent, Cheri Beasley, during that testimony?

12 A. Yes.

13 Q. Okay. And did that ad come up in your newspaper search?

14 A. Yes.

15 Q. Why did you not treat that as a charge of racism?

16 A. Could you refer me to the -- where that's discussed in my  
17 report?

18 Q. Sure. We can go to that. Absolutely.

19 A. To make sure I get...

20 Q. 100 percent. We are on -- it's the bottom of page 9 and  
21 top of page 10.

22 A. So I have a discussion of the Budd campaign and charges  
23 of it.

24 Q. And what was the nature of the criticism in the news  
25 coverage that you reviewed of the ad run against Candidate

## D. Critchlow - Direct Examination

1 Beasley that year that you heard during Dr. Burch's testimony?

2 A. Yes. This is on point three inches so everyone can see  
3 this.

4 In 2022, Cheri Beasley was the Democratic candidate and  
5 charges that she had there -- there were two TV spots charging  
6 her with being soft on -- soft on crime and when she then  
7 was -- when she was on the Supreme Court. And those TV spots  
8 were run by private PAC, Club for Growth, and then the  
9 National Republican Senatorial Committee, and they were proved  
10 to be inaccurate and immediately withdrawn. The attack ads  
11 had to do with her being soft on sexual offender, and in the  
12 end they were pulled.

13 It should be noted that both candidates took a strong  
14 stand on crime in their elections and they didn't pursue  
15 charges -- excuse me. Cheri Beasley did not attack her  
16 opponent or the ads as being racist.

17 Q. So in the news coverage that you reviewed, is it fair to  
18 say that it was not treated as a charge of racism?

19 A. Yes, I included -- not in the table which were direct  
20 accusations of racism whenever they appeared, but I do have a  
21 list of where racial issues came up. They are different than  
22 attacks on being charged with racism.

23 So I would frame this as kind of a racial -- had racial  
24 implications, but it was primarily about a sex offender and  
25 the candidate wasn't charged with racism. The Club for Growth



## D. Critchlow - Direct Examination

1 ad and the Republican ad was seen as inaccurate, that was the  
2 issue. It had to do with being soft on crime and letting a  
3 sex offender go which proved to be inaccurate. We don't need  
4 to go into details of what it was.

5 Q. All right. So I'd like to turn to the bottom of page 12  
6 which was the end of that Table 2 that we were looking at.

7 And here, Dr. Critchlow, you identify the percentage of  
8 races for governor, U.S. Senate in Congressional District 1  
9 during the time period of your study where you found charges  
10 of racism. What's that percentage?

11 A. Yeah. It was five percent. I think there was an issue  
12 in the deposition and confusion on the part of the Plaintiffs'  
13 attorney whether I was talking about races or campaigns. So  
14 if you take two of the races, there would be two campaigns in  
15 each of the races.

16 Q. So when you refer -- you talk about five percent of the  
17 races. Are you referring to candidacies or contests?

18 A. Candidacies. That's a better way of putting it. Thank  
19 you.

20 Q. Understood. So there's basically 40 candidates on the  
21 table competing for 20 offices?

22 A. Right.

23 Q. Got it.

24 A. Thank you.

25 Q. Did you find a pervasive emphasis on racism in these

## D. Critchlow - Direct Examination

1 campaigns?

2 A. No.

3 Q. Let's turn to page 13 of your report. Do you understand  
4 Dr. Burch to have conducted a systematic analysis of political  
5 campaigns in her racial appeals analysis?

6 A. No. From a report, it didn't appear to be systematic.

7 Q. All right. And do you understand Dr. Burch to have  
8 conducted a statistical analysis of racial appeals?

9 A. She could have.

10 Q. But do you understand if she did so?

11 A. Oh, she did it, yes. I thought you were asking me if she  
12 could. Excuse me.

13 Q. All right. Is your approach replicable?

14 A. Yes.

15 Q. Is Dr. Burch's?

16 A. It could be examined, but it couldn't be replicated in  
17 terms of her analysis. It appeared to be incidental I guess  
18 is a good word.

19 Q. So you couldn't just read her report and redo her  
20 analysis the same way she did; is that correct?

21 A. Well, she didn't -- it wasn't clear it was really a  
22 systematic analysis. She doesn't lay out as typical what her  
23 methodology was, what resources were. She suggested yesterday  
24 in testimony, which I attended, that she used these sources,  
25 but she didn't show how the sources were used or any

## D. Critchlow - Direct Examination

1 systematic approach and from -- from what I heard --

2 Q. Okay.

3 A. -- or read earlier.

4 Q. And taking sort of a step back for a moment. If we look  
5 at the bottom of page 13 and top of page 14 in your report, I  
6 think you identify a total of 16 racial appeals that --  
7 alleged racial appeals that Dr. Burch identifies in North  
8 Carolina campaigns; is that right?

9 A. Yes.

10 Q. Okay. And what was the range of election contests that  
11 Dr. Burch reported finding a racial appeal in?

12 A. Well, she -- I counted 16. I had to -- it was all kind  
13 of mushed in together in a report so I had to double-count  
14 them, and I hope this is an accurate count, but her charges of  
15 racial appeal appear in races from statewide elections all the  
16 way down to sheriff -- an incident of a sheriff, incident of a  
17 Board of Education and a House race I believe, state House  
18 race. So, in other words, they really -- they ranged, I  
19 guess. It included many, many offices and races.

20 Q. Okay. So counting all of those, all of those elected  
21 offices from governor to legislature, to school board, to  
22 sheriff, other statewide offices, do you have an understanding  
23 of how many election contests there were for all of those  
24 offices from 2018 to 2024?

25 A. Yeah. So you have statewide offices and then you also

## D. Critchlow - Direct Examination

1 have 100 counties in this state and I think 70 cities and I  
2 don't know how many towns, so if you include all of these  
3 races there would be hundreds and hundreds.

4 Actually, at one point I started to count -- I started to  
5 count these races to see what the local offices were being  
6 elected, and I could see that this was going to absorb a lot  
7 of my time. But anyway, I think we could conclude that  
8 there's hundreds and hundreds.

9 Q. Okay. Would you be able to quantify the pervasiveness of  
10 16 examples of a campaign tactic without a denominator?

11 A. Well, we take the denominator 100 plus or a thousand  
12 plus, I don't think we have the denominator. We do have a  
13 16-number numerator.

14 Q. But without that denominator, can we quantify the  
15 pervasiveness of 16 examples of the use of a campaign tactic?

16 A. No, no. That's one of the problems --

17 Q. And what denominator would you need to quantify that  
18 pervasiveness?

19 A. Well, the number of offices, their -- that the  
20 candidates, their elections being held over time. Looking at  
21 hundreds in a certain period, hundreds, hundreds upon hundreds  
22 and if you want to do it over a time frame, it would be even  
23 larger.

24 Q. Okay. Dr. Critchlow, let's turn to page 16 of your  
25 report. Did you find that campaign issues were more prominent

## D. Critchlow - Direct Examination

1 than racial appeals in political discourse and campaign  
2 rhetoric in the state?

3 A. Yes.

4 Q. So staying on this page, I'd like to now turn to the  
5 final part of your analysis where you look at some of Dr.  
6 Burch's specific examples. You have a discussion here --  
7 before we do that. We have a discussion here about -- a  
8 concern you raise about how Dr. Burch treats policy  
9 discussions in campaigns as racial appeals. Broadly stated,  
10 what is that concern?

11 A. That although she affirms in her rebuttal that areas of  
12 policing immigration and so forth are legitimate policy  
13 concerns, she then goes on to say that it becomes a subtle  
14 racial appeal any time an image is used. So in other words,  
15 there's image of immigrants crossing from the border, then  
16 that becomes a racial appeal.

17 So what the effect of this is that any discussion, a  
18 legitimate issue such as the border which is primary -- which  
19 became a prominent issue, then if a candidate depicts people  
20 crossing the border, that becomes in her criteria or mind a  
21 racial appeal.

22 Q. Okay. So let's talk very briefly about how this concern  
23 is operationalized in a few areas, and I'd like to start with  
24 border security and immigration. You report here at the  
25 bottom of 16 and the top of 17 of your report a survey about

## D. Critchlow - Direct Examination

1 public support for deportation of immigrants. Do you see  
2 that?

3 A. Yes. This was -- what page? I know the report, but I  
4 just want to make sure --

5 Q. Bottom of 16 and 17, Dr. Critchlow. It should be up on  
6 your screen.

7 A. Yeah. I see it now. I know the report. I just wanted  
8 to make sure that I didn't misspeak.

9 So this was a -- this was a CBS network, network, TV  
10 network with You/Gov which is a Washington Post poll that  
11 showed that the majority of registered voters, 62 percent,  
12 believed supported -- were in favor of a government program  
13 that were to deport all undocumented immigrants currently  
14 living in the United States. And I think what was surprising  
15 by this poll -- in this poll and it's replicated in other  
16 polls, by the way more recently, is that 53 percent of  
17 Hispanics were in favor of this national program.

18 Q. Okay.

19 A. So in other words, this was a legitimate policy issue, a  
20 concern with the voters themselves including Hispanics.

21 Q. So continuing on page 17, you have a discussion here of  
22 crime as potentially, quote, "coded language for race." Can  
23 you explain your analysis of Dr. Burch's views on this  
24 subject?

25 A. Yes. Very quickly. Crime rates were rising in North

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1 Carolina and that became a public concern as articulated by  
2 candidates running for office. That's what candidates do,  
3 they express concerns and offer ways of addressing these  
4 problems or issues or anxieties by the voters.

5 So once again, crime is -- public safety is a legitimate  
6 policy public discussion. And so once a candidate puts on an  
7 image of a criminal, whoever it is, then -- then in her -- Dr.  
8 Burch's methodology is that that becomes a racial appeal, a  
9 subtle racial appeal.

10 Q. Okay.

11 A. Somehow appealing to the basic instincts that are  
12 seeing -- that she sees in the public.

13 Q. Okay. And you report some crime statistics for North  
14 Carolina. Can you briefly identify what those statistics are?

15 A. Yeah. I was -- yeah. I think we should just make this  
16 short. You can see burglar rates, rape rates, aggravated  
17 assaults, and motor vehicle theft rising. I was actually  
18 pretty shocked by these numbers when I found them.

19 Q. And just for the clarity of records. What were the two  
20 dates that -- you said there was an increase, sort of the  
21 before and after?

22 A. Thank you. From 2013 to 2022.

23 Q. Okay. So I'd like to now turn to page 19, and you have a  
24 table reporting the results of a Pew survey on the subject of  
25 affirmative action?

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1 THE COURT: Mr. Lewis, we're going to take our  
2 15-minute recess.

3 (The proceedings were recessed at 11:00 a.m. and  
4 reconvened at 11:15 a.m.)

5 THE COURT: You may continue the direct examination,  
6 Mr. Lewis.

7 DEF ATTY: Thank you, Your Honor.

8 BY MR. LEWIS:

9 Q. I'd like to turn back to page 19 of your report, Dr.  
10 Critchlow. And in your Table 3, you report here a Pew survey  
11 on affirmative action. Can you discuss the survey?

12 A. Yes. This was a Pew survey looking at attitudes, public  
13 opinion toward affirmative action. You can see that the  
14 majority of Americans, White, Black, and Hispanic thought that  
15 people should be -- a person's qualification should be more  
16 important than their identity.

17 The point of this wasn't to make an argument for against  
18 affirmative action but to show that affirmative action is a  
19 legitimate area of political discourse and discussion and  
20 debate.

21 Q. Okay. Thank you. I'd like to move on very, very briefly  
22 to the discussion of the TikTok ad in the 2024 North Carolina  
23 Attorney General race between candidates Bishop and Jackson,  
24 and you discuss that ad in your report.

25 A. Yes.



## D. Critchlow - Direct Examination

1 Q. And how do you respond to Dr. Burch's charge that the ad  
2 was anti-Chinese and anti-Asian?

3 A. Yes. Just to make this brief, the accusation was that  
4 the -- that this meme was racist and it was -- there were a  
5 couple -- couple things that were important. First of all,  
6 TikTok is -- was and is a continuing discussion. It was a  
7 concern about Chinese ownership of widely used social media  
8 and that -- and that the -- she said it was -- excuse me --  
9 Dr. Burch argued that it was xenophobic and kind of an attack  
10 on Asian Americans or Asians. And the fact of the matter is  
11 that was not the public discussion. It had to do with Chinese  
12 ownership; it wasn't an attack on the Chinese people. It  
13 wasn't an attack on Asian Americans.

14 And finally, you know, she makes this assertion that it  
15 was bringing up racial stereotypes about Asians, but she  
16 doesn't kind of typically show this. You know, it's an  
17 assertion without any validation. It was bringing up people  
18 looking at this meme and this -- that somehow that was -- they  
19 were -- it was tapping some stereotype, negative stereotype of  
20 Asian Americans.

21 Q. All right. And -- okay. And the rest of your analysis  
22 of this appears on the face of this report; is that right?

23 A. (No response.)

24 THE COURT REPORTER: Did you answer the question?

25 THE WITNESS: I didn't hear the question.

## D. Critchlow - Direct Examination

1 BY MR. LEWIS:

2 Q. Sorry. I guess just to kind of wrap up on this. You  
3 identify a piece of legislation called the 21st century Peace  
4 through Strength Act. Very, very briefly, can you explain  
5 what that is?

6 A. Yes. It was a bipartisan vote that the Chinese  
7 government -- or Chinese ownership needs to be removed.

8 Q. Okay. All right. So as we move on, you go on to discuss  
9 in your report the success or lack of success of some of the  
10 campaigns that Dr. Burch alleged employed a racial appeal.  
11 And I'd like to just ask you very quickly about two of them.  
12 The first is Russell Walker who I understood run for House  
13 District 48 in 2018, and that appears on page 20.

14 Did Walker win or lose the general election that year?

15 A. Yes. He -- he -- just to make sure -- oh, yes.  
16 Walker -- Walker won the primary.

17 Q. He won the primary. And did he win or lose the general?

18 A. He lost, but he won the primary by very few votes --  
19 there were very few votes in that primary, so he won the  
20 nomination. And then I think the important thing is that the  
21 North Carolina Republican Party withdrew its support from  
22 Walker. And if you read in my report on page 20, you can see  
23 that GOP Chairman Robin Hayes wrote a very extensive rebuke of  
24 Walker and then Walker lost...

25 So anyway, yes. Go on -- we'll end it here for the

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1 matter of time.

2 Q. All right. And if we wanted -- and your analysis of  
3 other of these candidacies appears in your report, right?

4 A. Yes.

5 Q. Okay. So stepping back. Do you believe that Dr. Burch  
6 has shown that political campaigns in North Carolina are  
7 marked by racial appeals?

8 A. No -- no.

9 Q. I'd like now to turn to page 23 of your report where you  
10 discuss Senate Factor 7. And, here, can you just briefly  
11 identify what analysis you performed as the Senate Factor 7?

12 A. I think "analysis" may be too large a word. I basically  
13 counted elected representatives to this -- Black-elected  
14 representatives to the Senate and I began in 1982 I believe --  
15 or 1981. I would have to look at the table itself, but right  
16 before the Senate -- Senate amendments, Voting Rights  
17 Amendments in '82, then counted all the way up to the June,  
18 July of 2024. And what we saw -- and I'll be terse about  
19 this -- is a really steady and progressive increase in Black  
20 representation. And not included in my report, has been  
21 discussed in trial, is further increase after Black  
22 representation in the State Assembly in 2024 elections.

23 Q. Okay. If we go to page 24, do I understand correctly  
24 that you identified only four Black members of the North  
25 Carolina General Assembly in 1981?

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1 A. That's right.

2 Q. All right. You also note that there were Black mayors of  
3 several cities and a series -- you list a series of Black  
4 judges in North Carolina. What does that tell you?

5 A. Yeah. First of all, this list was drawn from Governor  
6 Roy Cooper, who was actually -- he listed the mayors, judges,  
7 prosecutors, and Black-elected officials out of a matter of  
8 pride. So North Carolina, in my view as an outsider, has  
9 taken great pride in racial progress that's being made.

10 I think the second point that I want to make, and if I'm  
11 speaking too quickly just let me know -- that politics should  
12 be seen as climbing a political ladder and you get elected to  
13 local office, move up to higher offices and then you prepare  
14 yourself candidates for running for statewide office or even  
15 national office. That's the way politics work.

16 So what you see in this table isn't -- the importance of  
17 it isn't the number of mayors or the number of judges or  
18 prosecutors, it's that you can begin to see that there's a  
19 political force being mobilized by the Black community and  
20 their representatives alternatives and this could be for  
21 Republicans and Democrats.

22 Q. And based on this record, Dr. Critchlow, can it be said  
23 that Black North Carolinians are rarely elected to legislative  
24 office in North Carolina?

25 A. No. In fact, I believe it's proportionately even higher

## D. Critchlow - Cross-Examination

1 in Black representation if you compare it to the general Black  
2 population --

3 Q. Okay. Thank you.

4 A. -- in the state.

5 MR. LEWIS: Your Honor, I don't have any further  
6 questions.

7 I'd like to just move the admission of his report,  
8 Legislative Defendants' Exhibit 61.

9 THE COURT: It'll be received. Thank you.

10 (Defendant's Exhibit No. 61 was admitted into evidence.)

11 THE COURT: Cross-examination.

12 MR. JONES: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. JONES:

15 Q. Good morning, Dr. Critchlow.

16 A. Good morning.

17 Q. You analyzed Senate Factor 6 which looks at whether  
18 political campaigns in North Carolina have been characterized  
19 by overt or subtle racial appeals, sometimes referred to  
20 explicit or implicit racial appeals, correct?

21 A. Yes, sir.

22 Q. Okay. You defined explicit racial appeal to mean a  
23 statement to the effect of vote for me because I am White or a  
24 particular race. That is how you are defining explicit racial  
25 appeal, correct?

## D. Critchlow - Cross-Examination

1 A. That would be included in the general definition, yes, my  
2 general definition.

3 Q. Okay. That, in fact, is your definition, correct?

4 A. That is my definition. Is that what the question is,  
5 sir?

6 Q. Yes. What I read is your definition.

7 I'll ask the question again: You defined explicit racial  
8 appeal to mean a statement to the effect of vote for me  
9 because I am White or a particular race. That is how you are  
10 defining explicit racial appeal, correct?

11 A. As you recall, that's what I said in the deposition.  
12 That would be the intention, not the verbatim wording, of an  
13 explicit racial appeal.

14 MR. JONES: Can we pull up Dr Critchlow's deposition  
15 transcript at page 59, and can we blow up lines 12 through 19  
16 please.

17 BY MR. JONES:

18 Q. Okay. A preparatory matter there, and then I asked you:  
19 "Explicit racial appeal is defined to mean a statement to the  
20 effect of vote for me because I am White or a particular race.  
21 That is how you are defining "explicit racial appeal," right?

22 And your answer was: Yes, generally.

23 That is your deposition testimony, and it was truthful,  
24 correct?

25 A. Yes. Especially the "generally" part.

## D. Critchlow - Cross-Examination

1 Q. You consider racial appeals to be an overt racial appeal  
2 when a candidate appeals to voters to vote for them solely on  
3 the basis of race, correct?

4 A. Generally, yes.

5 Q. You do not have an understanding of the term or phrase  
6 "subtle racial appeals," which is also a phrase that appears  
7 in Senate Factor 5, correct?

8 A. It's a more subjective definition in how it's used, and  
9 actually has given rise to scholarly debate. Scholars like to  
10 have debates among themselves.

11 Q. My question is a little different. My question is: You,  
12 Dr. Critchlow, do not have an understanding of the phrase or  
13 term "subtle racial appeals," which is also a phrase that  
14 appears in Senate Factor 5, correct?

15 A. I'm not quite sure how to answer this. You're asking if  
16 I have an understanding of them?

17 Q. Sure.

18 A. Maybe the way of addressing this, if I may, is that my  
19 definition of either overt or subtle racial appeals did not  
20 affect the methodology. That's what I was developing in my  
21 methodology in looking at newspapers. It was objective and  
22 was not based on my definition.

23 So if we want to pursue what my definition was, it's kind  
24 of a moot question in relationship to my report, I would  
25 suggest to you.

## D. Critchlow - Cross-Examination

1 Q. Okay. I pulled up page 25 of your deposition transcript,  
2 and can I blow up line 6 through 25.

3 Starting on line 11 I asked you: What about the term  
4 "subtle racial appeals," which is also a phrase that appears  
5 in Senate Factor 5. Do you have an understanding of that  
6 phrase?

7 And your answer began: No.

8 That was your deposition testimony, and it was truthful,  
9 correct?

10 A. Am I -- if you read on, it says: I was relying on your  
11 expert witness for that since she's charging -- she charged in  
12 her report that a rebuttal implicit or subtle racial appeals.

13 And if you look further in this deposition, you'll see  
14 that I make a point over and over again, although we circle  
15 the round and round in this seven-hour deposition, that I said  
16 it was not important for my methodology and for the report  
17 that I provided to you and your expert witness that could be  
18 replicated. This was a point I made multiple times. I don't  
19 have the deposition here. I have an annotated copy of it in  
20 which I bring this up.

21 I'm sorry to go on so long. I know that I -- I have a  
22 plane to catch, and I know everyone else is anxious to go too  
23 probably, just like my students in class.

24 Go on. I'm sorry for the humor.

25 Q. Dr. Critchlow, I'm just going to ask you a



## D. Critchlow - Cross-Examination

1 straightforward question. In response to this question at the  
2 deposition, which I just read to you, your answer began: No.

3 That was your deposition testimony, and it was truthful,  
4 correct?

5 THE COURT: He just gave a big explanation. Why  
6 don't you ask another question, Mr. Jones. Let's keep it  
7 moving along.

8 BY MR. JONES:

9 Q. Before this case, you were familiar with the body of  
10 academic literature about the use of explicit or implicit  
11 racial appeals in political campaigns, correct?

12 A. Yes. I was -- it's a huge, huge literature, sir, as you  
13 probably know.

14 Q. Your work in this case focused only on whether there were  
15 charges of racism in a particular campaign rather than  
16 searching for explicit or implicit racial appeals in the way  
17 that Dr. Burch did, correct?

18 A. Yes.

19 Q. As a historian, when you were looking at North Carolina  
20 politics and political campaigns for this case, you were  
21 primarily looking at issues of racism so you weren't looking  
22 at overt versus subtle racial appeals, correct?

23 A. Charges of racism would have included accusations of  
24 racial appeals, so yes, you're -- so, yes. Yes, is my answer.

25 Q. You believed that Dr. Burch's explanation or definition

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1 of implicit racial appeals is irrelevant to your work because  
2 that isn't what you were looking at; you were looking at a  
3 different question which is whether there were charges of  
4 racism in a particular campaign, correct?

5 A. No, I don't think her work was irrelevant. I looked at  
6 her charges. I looked at -- through my -- through my  
7 methodology, I was looking to see how pervasive racial appeals  
8 were.

9 MR. JONES: Can we pull up the deposition transcript  
10 at page 43 and blow up lines 19 through 17.

11 BY MR. JONES:

12 Q. Dr. Critchlow, at deposition I asked you the question --  
13 same question I just asked you: And you believe that Dr.  
14 Burch's explanation or definition of "implicit racial appeals"  
15 is irrelevant to your work because that isn't what you were  
16 looking at? You were looking at a different question, which  
17 is whether there were charges of racism in a particular  
18 campaign; is that right?

19 And your answer was: That's generally a fair  
20 characterization of what I said, yes.

21 That was your deposition testimony, and it was truthful,  
22 correct?

23 A. It was intended to be truthful, but I think it was -- I  
24 would state it differently, as I just did just now. I don't  
25 think her work was irrelevant. I looked at it and her -- what

## D. Critchlow - Cross-Examination

1 I was saying is that the definition, whether explicit or  
2 implicit, was -- perhaps this is the wrong word, although it's  
3 the word you used, irrelevant. It wasn't -- it wasn't -- I  
4 didn't do a subjective analysis, so the definition itself was  
5 not part of what I was looking at. Although, racial appeals  
6 would have appeared. I didn't need a definition. If charges  
7 of racism were appearing that would have been seen as a racial  
8 appeal.

9 Q. When --

10 A. I don't know if I explained it very well. I tried,  
11 though.

12 Q. When you testified -- you were under oath at the  
13 deposition, correct?

14 A. Yes, sir.

15 Q. When you testified at the deposition, "That's generally a  
16 fair characterization of what I said, yes," that was truthful  
17 testimony, correct?

18 A. Yes, but I think we may be speaking past one another when  
19 I was -- when I agreed that the word was -- that was  
20 irrelevant.

21 Q. You didn't focus on whether a particular statement was an  
22 overt or explicit or subtle racial appeal, you were looking at  
23 what the issues were that candidates ran on, what were the  
24 prominent issues and whether charges of racism or bigotry had  
25 appeared by their opponent as reported in the newspapers based

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1 on your search, correct?

2 A. No. That's a mischaracterization, I'm sorry, sir.

3 MR. JONES: Okay. Can we pull up page 44 of the  
4 deposition, and can we blow up lines 3 through 15.

5 BY MR. JONES:

6 Q. And I'll show you, I was actually just reading from your  
7 testimony just now.

8 I asked you: Can you identify to me now any particular  
9 thing that you believe is inconsistent between her --  
10 referring to Dr. Burch's -- use or her definition of implicit  
11 racial appeal in the initial report and the rebuttal report by  
12 Dr. Burch?

13 And this was your answer: Again, I'd have to look at her  
14 second report. That was my general sense at the time, but I  
15 didn't focus on whether it was overt or explicit racial  
16 appeal. We were looking at what the issues were that the  
17 candidates ran on, what were the prominent issues and whether  
18 there were charges of racism or bigotry had appeared in -- by  
19 their opponents as reported in the newspaper in an extensive  
20 newspaper search.

21 That was your deposition testimony, and it was truthful,  
22 correct?

23 A. Yes. If I may?

24 THE COURT: You may.

25 THE WITNESS: The -- it was charges by their

## D. Critchlow - Cross-Examination

1 opponents, I think it just being -- I should have just said  
2 charges of racism as reported in newspapers. It could have  
3 been made by anyone, political opponents, the candidates, or  
4 so. That's what I was trying to qualify when you first asked  
5 the question, sir.

6 BY MR. JONES:

7 Q. You agree that there have been explicit or overt racial  
8 appeals in North Carolina political campaigns at any time,  
9 correct?

10 A. Yes, I testified as such in the deposition.

11 Q. And you agree that there have been implicit or subtle  
12 racial appeals in North Carolina political campaigns at any  
13 time, correct?

14 Sir, would it help if I repeated the question?

15 A. No. I -- no, I haven't zoned out. Sorry. I was  
16 thinking -- I was thinking of -- think -- thinking of the  
17 correct answer. That was -- perhaps since you want to show me  
18 the deposition, maybe you could show me. We might have  
19 addressed that at the deposition.

20 Q. Sure. I'm happy to refresh your recollection.

21 MR. JONES: Can we pull up page 29 of the  
22 deposition.

23 THE WITNESS: I thought you'd might.

24 MR. JONES: Can we blow up lines 18 through 21.  
25

## D. Critchlow - Cross-Examination

1 BY MR. JONES:

2 Q. I asked you the question: Do you believe that there have  
3 been implicit or subtle racial appeals in North Carolina  
4 political campaigns at any time?

5 And your answer was: Yes.

6 That was your deposition testimony, and it was truthful,  
7 correct?

8 A. Yes.

9 Q. Okay.

10 A. I can see this. The reason I was pausing is this -- and  
11 I think we're limited time here, so I don't want you to get  
12 into the scholarly mind. But in North Carolina politics over  
13 time there have been mostly explicit racial appeals. And so  
14 the discussion of implicit racial appeals gets to one of its  
15 actually, as used by your expert witness, is rather  
16 subjective, so that's why I was kind of pausing thinking in my  
17 mind -- although I'm anxious still to get the plane -- about  
18 what implicit racial appeals you had in mind. So I apologize  
19 for that delay.

20 THE COURT: He'll ask you some more questions.

21 THE WITNESS: Okay. Good.

22 THE COURT: Maybe not too many more, but just let  
23 him get a crack at another question. We're moving along.

24 THE WITNESS: Okay. Thank you. I apologize for  
25 that too.

## D. Critchlow - Cross-Examination

1 BY MR. JONES:

2 Q. You're aware of -- it's very clear that there were  
3 explicit racial appeals in North Carolina politics in the late  
4 19th century and early 20th century, correct?

5 A. Yes.

6 Q. Some of those appeals were quite overt, correct?

7 A. Yes.

8 Q. And you are aware of other examples or instances of  
9 explicit overt racial appeals in North Carolina politics since  
10 then, correct?

11 A. Yes.

12 Q. So you agree that there have been instances of explicit  
13 racial appeals in North Carolina politics more recently than  
14 the early 20th century, correct?

15 A. Yes.

16 Q. Let's talk about your newspaper survey.

17 A. Okay.

18 Q. To evaluate charges of racism, as you use that term in  
19 your analysis in North Carolina politics, you conducted a  
20 survey of newspapers from 2008 to 2024, correct?

21 A. Yes.

22 Q. And you used the website newspapers.com to conduct your  
23 survey, correct?

24 A. Yes.

25 Q. For the newspapers.com searches you only searched North

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1 Carolina newspapers, right?

2 A. Yes.

3 Q. You didn't search any national newspapers or any  
4 newspapers outside of North Carolina, correct?

5 A. Yes. Because the question was looking at the allegation  
6 of racial appeals being pervasive in North Carolina politics.

7 Q. And other than North Carolina newspapers, you did not  
8 search in this newspapers.com's survey any other form of  
9 media, be it television or magazine or online publications or  
10 anything other than North Carolina newspapers, correct?

11 A. I used newspapers as the primary source. There's not a  
12 database that could systematically look at television reports  
13 or radio reports, so it wouldn't be a systematic review. And  
14 newspapers are very accurate public record of these kinds of  
15 racial controversies and accusations.

16 Q. So I think, then, it's accurate to say based on what you  
17 just described that other than North Carolina newspapers for  
18 this survey that you conducted to identify charges of racism,  
19 you did not search in any form of media other than the  
20 newspapers and specifically the North Carolina newspapers,  
21 correct?

22 A. I told you I did not do a systematic search.

23 Q. Okay. In your newspaper survey of North Carolina  
24 newspapers only, you searched only for three types of  
25 elections from 2008 to 2024, which were North Carolina



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1 Governor, U.S. Senate and Congressional District 1, correct?

2 A. Yes, sir.

3 Q. Other than governor and U.S. Senate for this newspaper  
4 survey, you did not search any other statewide races, correct?

5 A. Not systematic search or analysis, yes.

6 Q. And other than Congressional District 1, you did not, for  
7 this newspaper survey, search any of North Carolina's other  
8 congressional districts, correct?

9 A. I did not do a systematic research on this.

10 Q. I think my question is a little different. I want to  
11 make sure my record is clear about what you did or didn't do  
12 in this newspaper survey specifically.

13 In your newspaper survey, which used newspapers.com to  
14 search for charges of racism, as you use that term, you  
15 searched only for Congressional District 1 and not for any of  
16 North Carolina's other congressional districts, right?

17 A. That was my systematic research on those three races.

18 Q. Okay. For your newspaper survey using newspapers.com,  
19 you did not search for any North Carolina General Assembly  
20 elections, neither State House nor State Senate elections,  
21 correct?

22 A. Yeah. I think we're going around here because there's,  
23 again, we're kind of talking past one another. I'm talking  
24 about -- I was pointing to what I did systematic research for  
25 in the newspaper.com. That doesn't mean I didn't look at

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1 other searches for campaigns or candidates or other issues,  
2 especially ones brought up by Burch. So it wasn't a  
3 systematic research. So I think we're going around on this  
4 issue of what I searched.

5 I did not do a systematic research, but I did search for  
6 and look at other political campaigns.

7 Q. Okay. But for now, Dr. Critchlow, I'm only looking --  
8 asking you about the newspaper survey that you conducted using  
9 newspapers.com; and as part of that newspaper survey and  
10 newspapers.com, you did not search for any races for North  
11 Carolina General Assembly, either the State House or the State  
12 Senate, correct?

13 A. Yes. I did not do a systematic research of other races  
14 or campaigns.

15 Q. You used three search terms in your searches in  
16 newspapers.com, and those are the words "racism," "bigotry,"  
17 and "issues." Correct?

18 A. Candidates and issues. We put in the names of each of  
19 the candidates and did a search related to issues. So when we  
20 say "candidates," it was made more than just candidate.

21 Q. Other than the names of the candidates in the  
22 gubernatorial, U.S. Senate, and Congressional District 1 races  
23 that you analyzed from 2008 to 2024, other than those  
24 candidate names, you used three search terms in your searches,  
25 and those are the words "racism," "bigotry," and "issues,"

## D. Critchlow - Cross-Examination

1 correct?

2 A. Yes, sir.

3 Q. You didn't search for the word racist, just racism as

4 described in your report, correct?

5 A. Yes.

6 Q. You didn't search the word racial, correct?

7 A. Yes.

8 Q. You didn't search the word racially, as in racially

9 insensitive or racially sensitive, correct?

10 A. Yes. I only searched for racism.

11 Q. You didn't search for bigot, only bigotry, correct?

12 A. Yes.

13 Q. You didn't search for bigoted?

14 A. I only search for bigotry, yes, sir.

15 Q. You didn't search for discriminatory or discrimination or

16 prejudice or prejudiced or bias or dog whistle, or any other

17 words that could commonly come up in media coverage of the

18 types of racial appeals in political campaigns that are at

19 issue in Senate Factor 6, correct?

20 A. Yes.

21 Q. Okay. Your -- your newspaper survey, including the

22 searches, had several steps, right?

23 A. Yes.

24 Q. Okay.

25 A. I'm not sure what you mean, turning on the computer? But

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1 what do you mean by "steps?"

2 Q. So in the first phase before you went into newspapers.com  
3 you identified the candidates in the three races; governor,  
4 U.S. Senate, and CD1 in each year that was covered by your  
5 time period 2008 to 2004, correct?

6 A. Yeah. I see what you mean. I'm sorry for being flippant  
7 by the way. I apologize, Mr. Jones --

8 Q. Totally --

9 A. -- if I was being flippant.

10 Q. -- totally fine, Dr. Critchlow. I just want to make sure  
11 that you answer that question.

12 A. Thank you for accepting my apology.

13 Q. I accurately described just now the first phase of your  
14 newspaper survey, correct?

15 A. Okay. I'm not -- maybe you can repeat it. I got off  
16 here.

17 Q. Sure. In the first phase of your newspaper survey before  
18 you went into newspapers.com, you identified the candidates in  
19 those three races for each year that was covered by your time  
20 period 2008 to 2024, correct?

21 A. Yes.

22 Q. And then in a second phase, once you identified all those  
23 candidates for governor, U.S. Senate, and CD1, you then went  
24 into newspapers.com and then ran searches about those  
25 candidates using those three terms, "racism," "bigotry," and

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1 "issues," correct?

2 A. No. For the candidates we put in the same of the  
3 candidates and we put in "issues" and then kept track of what  
4 the issues that were appearing.

5 Q. Okay. In this phase, you searched using the names of the  
6 candidates, both candidates in a race, along with the word  
7 "issues," and then a separate search with the names of the  
8 candidates and the word "racism," and then a separate search  
9 with the names of the candidates and the word "bigotry,"  
10 correct?

11 A. We looked for -- yes, yes. I see what you're asking.  
12 Yes.

13 Q. You see what I'm asking, and you agree with my  
14 description?

15 A. Yes. I believe I agree with it.

16 Q. Okay. And the results, then, of your newspaper survey,  
17 your searches on newspaper.com, would be all of the newspaper  
18 articles that show up as hits when you conduct that search;  
19 the names of both candidates along with each of those three  
20 words separately for every gubernatorial, U.S. Senate, and  
21 Congressional District 1 race from 2008 to 2024, correct?

22 A. Yeah. We submitted I think 114 reports, but those were  
23 only selected from hundreds of other articles, some of the  
24 articles would be duplicated in other newspapers, so if we  
25 sent you actually along with those newspapers and the articles

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1 two zip files that I think had hundreds of articles.

2 Q. For your analysis in this case, it's really beside the  
3 point whether you viewed something as overt, explicit,  
4 implicit or subtle racial appeals because that wasn't the  
5 nature of your research as an expert opinion in this case,  
6 correct?

7 A. The definition of those terms didn't matter, although  
8 racial appeals would appear in the newspaper searches.

9 MR. JONES: Can we pull up pages 169 and 170 of the  
10 deposition transcript please. Can we blow up page 170, lines  
11 20 through 24.

12 BY MR. JONES:

13 Q. And I had asked you a question. This is a snippet from  
14 your answer: So I know you don't like this answer, but it's  
15 really beside the point whether I viewed something as overt,  
16 explicit, implicit or subtle racial appeals. That wasn't the  
17 nature of my research as an expert opinion.

18 That was your testimony at deposition, and it was  
19 truthful, correct?

20 A. Yes. The point being that I didn't -- I was not -- I'm  
21 sorry we're going around about this. But the point is I --  
22 the research was not based on my -- what I would consider as  
23 subjective definition or even objective definition of what  
24 racial appeals were. I was looking at racial appeals through  
25 the term racism. I was testing how pervasive racial appeals

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1 were. So the definition didn't matter, and that's what I was  
2 trying to answer in this question and I'm trying to answer  
3 now.

4 Q. You were not trying to ascertain whether there were  
5 racial appeals, incidents of racial appeals, correct?

6 A. No. That's not correct.

7 MR. JONES: Okay. Can we pull up the deposition  
8 transcript of page 171, and can we blow up lines 11 through 17  
9 please.

10 BY MR. JONES:

11 Q. Dr. Critchlow, I'm going to show you the statement I just  
12 read. It was actually something that you said at deposition.

13 I asked you: Are you offering an expert opinion in this  
14 case about whether Roger Allison's statement about  
15 majority-minority district in that 2018 congressional race was  
16 or was not an overt or subtle racial appeal?

17 And your answer began: Again, it was not something that  
18 we were -- we are not trying to ascertain whether there were  
19 racial appeals, incidents of it.

20 That was your testimony at deposition, and it was  
21 truthful, correct?

22 A. That's what it says here. That's what it says. That's  
23 what I said then. I'm not sure what the background of this  
24 question was or the context; but for the sake of speed, let's  
25 say that I was being truthful and that was what was stated. I

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1 don't know the entire context of what the line of questioning  
2 was here.

3 MR. LEWIS: Your Honor, if I may interject. Under  
4 Rule 32(a)(6), other portions of the deposition should be  
5 allowed to be introduced. In fairness must be considered with  
6 respect to the part. This answer has been cut off.

7 THE COURT: Right. I mean, you can clean it up on  
8 redirect. I mean, he's explained himself. There's an effort  
9 at impeachment.

10 Let's keep it moving, folks. Time is a gift. We  
11 should not lose sight of that. It really is a gift. Every  
12 day is a gift.

13 MR. JONES: Thank you, Your Honor. Appreciate that.  
14 BY MR. JONES:

15 Q. Dr. Critchlow, you are not offering an opinion in this  
16 case one way or the other about whether that Roger Allison  
17 minority-majority district statement in 2018 was an overt or  
18 subtle racial appeal, correct?

19 A. I don't -- yes.

20 Q. You are not offering an opinion in this case about  
21 whether the Jesse Helms' hands ad that you discussed earlier  
22 was or was not an overt or subtle racial appeal, correct?

23 A. Yeah. Mr. Jones, I'm very pleased that you brought that  
24 up, because we spent a good deal of time in the deposition  
25 about this. And I want to make this clear to you.



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1        You showed me the advertise -- the advertisement of the  
2 two hands, Black and White, and you asked me if that was a  
3 racial appeal. And I said, in terms of that, of what you were  
4 showing me, it wasn't necessarily. It appears to be an  
5 argument, a point about -- about affirmative action.

6        But if you had shown me what you had -- what you did not  
7 in the -- in that deposition, the text in which Helms clearly  
8 is making a racial appeal, I would have said that was a racial  
9 appeal. So you showed me an image, asked me if that was  
10 necessarily a racial appeal, because we kept going over  
11 definitions on racial appeals and I said, not necessarily.

12        If you would have -- and I'll repeat once again,  
13 Mr. Jones. That if you had shown me the text as I -- as I  
14 knew was a racial appeal, I would have said it was an explicit  
15 racial appeal, quite outrageous actually.

16 Q.    Do you recall you told me at deposition that you had  
17 never seen the Jesse Helms' hands ad before?

18 A.    I had seen it, but didn't remember it. Later I went and  
19 looked at the text; and if you would have shown me the text,  
20 the text to that, I would have told you without hesitation  
21 that was an explicit racial appeal.

22 Q.    You wrote about the Jesse Helms' hands ad and the  
23 question about whether it's a racial appeal in your report in  
24 this case. Did you have an opportunity to review the ad in  
25 connection with preparing your report?

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1 A. In preparing -- after the deposition I went and looked at  
2 it, yes.

3 Q. No. I'm asking you --

4 A. No.

5 Q. You prepared the report before the deposition. I'm  
6 asking you before you wrote about the Jesse Helms' hands ad in  
7 your report in this case, did you look at it, watch it?

8 A. No. I looked at the -- it was reported by Professor --  
9 excuse me -- Dr. Burch, and I looked at the image that was on  
10 her -- that was in her report.

11 Q. Sitting here today based on everything that you know as  
12 an American political historian and your work on the issue of  
13 racial appeals in this case, do you believe that the Helms'  
14 1990 White hands ad was a racial appeal or a race baiting?

15 A. Yes.

16 MR. JONES: Okay. Can I pull up pages 70 to 71 of  
17 the deposition transcript.

18 BY MR. JONES:

19 Q. Starting at the bottom of page 70, I asked you: My  
20 question is, just sitting here today based on everything that  
21 you know as an American political historian and your work on  
22 the issue of racial appeals in this case, do you believe that  
23 the Helms' 1990 White hands ad was a racial appeal or race  
24 baiting?

25 And your answer was: I said I could not draw a

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1 conclusion.

2 First of all, did I read that correctly?

3 A. Yes.

4 Q. And do I gather that that no longer is your answer to the  
5 question?

6 A. To the last question; that I cannot draw a conclusion is  
7 what you're asking? Yes.

8 Q. You have a different answer to that question now than you  
9 did when I asked you the same question at deposition?

10 A. Yes.

11 Q. And you're now very clear that that Jesse Helms' White  
12 hands ad was a racial appeal and, in fact, was an explicit  
13 racial appeal?

14 A. Yes, based on the text.

15 Q. Do you believe that it was -- also had markers or  
16 characteristics of an implicit racial appeal?

17 A. Based on the text that people were -- people looking at  
18 the image based on the text, it would have been a quite  
19 explicit racial appeal. Whether -- I mean, I don't think --  
20 it was so explicit, I don't know what the meaning of the word  
21 is implicit. It was quite explicit.

22 Q. We'll move on. Thank you, Dr. Critchlow.

23 You are not offering an expert opinion in this case on  
24 whether any of the statements that were discussed at your  
25 deposition from Mark Robinson, then Lieutenant Governor Mark

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1 Robinson, are overt or subtle racial appeals, correct?

2 A. I'm not offering an opinion, now or then?

3 Q. You're not offering an expert opinion in this case on  
4 whether those ads about Cheri Beasley from the U.S. Senate  
5 race in 2022 against Ted Budd are overt or subtle racial  
6 appeals, correct?

7 A. I thought you were asking me about Mark Robinson. Maybe  
8 I misunderstood.

9 THE COURT: He moved on to the -- he's trying to  
10 keep it moving. Oh, he moved on to another one.

11 THE WITNESS: Okay. He's moving fast here.

12 THE COURT: Right? You're off of Robinson, now  
13 you're on to Budd?

14 MR. JONES: Yeah. I -- Let me ask the Mark Robinson  
15 question again, because I'm not sure that you actually  
16 intended to be answering it.

17 BY MR. JONES:

18 Q. You, Dr. Critchlow, are not offering an expert opinion in  
19 this case on whether any of the statements from Mark Robinson  
20 are overt or subtle racial appeals, correct?

21 A. I didn't at that time. The report that I drew was --  
22 made was in June, July. The report that came out later of his  
23 declaration on a porn site or the allegation that he said this  
24 on a porn site that he was a Black Nazi, that may have been a  
25 racial appeal of some sort, but it was -- you know, calling

## D. Critchlow - Cross-Examination

1 one -- calling oneself a Nazi is usually -- might be seen as a  
2 racial appeal. That's what he did. Of course, that was 2008,  
3 I believe.

4 MR. JONES: Okay. Can we pull up page 173 of the  
5 deposition.

6 BY MR. JONES:

7 Q. Dr. Critchlow, first of all, you recall we spoke at the  
8 deposition pretty extensively about various statements made by  
9 Mark Robinson, including that his statements that he is not  
10 African American, that Michelle Obama is a man, that Barack  
11 Obama is an anti-American atheist, that Mr. Robinson himself  
12 is a Black Nazi, that he advocated bringing back slavery and  
13 said that he wanted to own human beings himself.

14 Do you recall that we discussed all of those at the  
15 deposition?

16 A. Yes, I remember we had an extensive discussion. I don't  
17 know if it was brought up that he was a Black Nazi because --  
18 oh, maybe -- because that was in -- the deposition was --  
19 well, I'm sorry. Maybe you did bring it up.

20 So, anyway, let's say, yes, just so we can proceed.

21 Q. You recall that at the deposition I asked you -- and I  
22 can show it to you, it's on page 21 -- I asked you about the  
23 then recent news about Mark Robinson having described himself  
24 as a Nazi, advocated bringing back slavery, and saying that he  
25 wanted to open -- to own human beings. And you said at the

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1 time that you were aware of those reports at the time of this  
2 deposition which was September 27th, 2024. You recall that?

3 A. Yes. The news had just broken on this or the allegation.  
4 Yes, I remember now. I couldn't remember when the deposition  
5 was at the time.

6 MR. JONES: Now, can we go to page 173 of the  
7 deposition and blow up lines 20 through 24, please.

8 BY MR. JONES:

9 Q. Dr. Critchlow, after the reports of Mr. Robinson  
10 referring to himself as a Nazi and advocating slavery and  
11 saying that he wanted to own human beings had surfaced in the  
12 news and after we had discussed it earlier in your deposition,  
13 I asked you this question: Are you offering an expert opinion  
14 in this case on whether any of the statements that we talked  
15 about earlier from Mark Robinson are overt or subtle racial  
16 appeals?

17 And your answer was: No.

18 First of all, did I read that correctly?

19 A. Yes.

20 Q. And do I understand you to be saying that you have a  
21 different answer to that question today than you did at the  
22 deposition in September 2024?

23 A. I think we can all agree that Mark Robinson was an  
24 unusual candidate. He in the end seemed to offend a lot of  
25 people even though he got 40 percent of the vote, but it was

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1 well behind Trump swinging of the state. But he seemed to  
2 have offended many people, Blacks and Whites. And so some of  
3 the -- we would have to go through each of the accusations --  
4 which I don't even want to open this door perhaps. But some  
5 of his comments he was accused of being a racist, but I think  
6 there could be a different reading on some of his -- on what  
7 he was -- in what he was saying.

8 So, for example, when he said, "I'm not African  
9 American," I think he was saying he could be interpreted that  
10 way...

11 Q. Okay. Do you now believe --

12 A. I wasn't finished. I was waiting to make sure you were  
13 finished with your conversation.

14 So where he says he's not an African American, I think he  
15 was trying to say that he's an American.

16 Q. Do you believe sitting here today that there were  
17 explicit or implicit racial appeals in the North Carolina 2024  
18 gubernatorial race between Josh Stein and Mark Robinson?

19 MR. LEWIS: Objection. Beyond the scope of a direct  
20 exam or the report.

21 THE COURT: Overruled.

22 If you have an opinion.

23 THE WITNESS: There were accusations of racial  
24 appeals, yes.

25 MR. JONES: So can you pull up Dr. Critchlow's

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1 report which is LD61 and go to page 11.

2 BY MR. JONES:

3 Q. This is the chart reporting the results of your newspaper  
4 survey, and we can see there's a list of candidates and races  
5 that you searched including the 2024 gubernatorial race and  
6 there's a column for racism charges.

7 At the time of this report, you did not check the box for  
8 any racism charges in that 2024 gubernatorial race, correct?

9 A. Yes.

10 Q. And you told me at your deposition in September --  
11 September of 2024, after the news of Mark Robinson having  
12 referred to himself as a Nazi and all the rest had broken in  
13 the news and we had talked about it, you told me then that you  
14 stood behind the results of everything in your report,  
15 including this column, racism charges, that's reporting the  
16 results of your analysis, correct?

17 A. Yes.

18 Q. Okay. And am I right you now are not standing behind  
19 what you found here because you believe that there should be a  
20 check box for that 2024 gubernatorial race for racism charges,  
21 right?

22 A. Yes. There were racism charges after the news broke on  
23 the porn site. Although, he denied the -- Mark Robinson  
24 denied the allegations, continued to -- at that point, there  
25 was -- it should be noted that the Republicans tried to push



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1 him off the ticket. It turned out to be a mess. But at that  
2 point, the charges of racism became -- against Robinson  
3 became -- were pronounced once he said that he was a Nazi.

4 So this was just breaking. This was just breaking at the  
5 time of the deposition.

6 Q. You are not offering any expert opinion in this case on  
7 whether the ads against Cheri Beasley from the 2022 Senate  
8 race are overt or subtle racial appeals, correct?

9 A. No.

10 Q. No, you are not offering any such opinion, correct?

11 A. Yes. I'm offering an opinion, yes.

12 MR. JONES: Can we pull up page 175 of the  
13 deposition transcript. Can we blow up lines 11 through 14.

14 BY MR. JONES:

15 Q. I asked you at deposition: Are you offering an expert  
16 opinion in this case on whether those ads about Cheri Beasley  
17 from the U.S. Senate race are overt or subtle racial appeals?

18 You answered: No.

19 First of all, did I read that correctly?

20 A. Yes.

21 Q. That was your testimony at deposition, and you were under  
22 oath, correct?

23 A. Yes.

24 Q. Do I understand you to say that you have a different  
25 answer to that question today than the one you gave me at the

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1 deposition?

2 A. In the -- if you could look at the report. Do you want  
3 to look at the report?

4 Q. Is your answer to this question that is on the screen  
5 still "no" or is it a different answer today?

6 A. I would like to see what it said in the report. I'm  
7 asking -- I can turn to it if you want.

8 Q. No. I don't want you to do that. You can see your  
9 deposition testimony on the screen.

10 I asked you a straightforward question about whether you  
11 are offering a particular expert opinion in this case.

12 THE COURT: Is your opinion what's in the report?  
13 He has three minutes and the clock is ticking.

14 THE WITNESS: Yeah -- no.

15 THE COURT: He has three minutes and then it's over.

16 THE WITNESS: Okay. It was not in the report. It's  
17 in the report as a yes. So this was a misstatement, I  
18 believe.

19 BY MR. JONES:

20 Q. Okay. Another incident that Dr. Burch spoke about was  
21 the 2020 congressional race where republican candidate Greg  
22 Murphy said that Vice President Kamala Harris was, quote,  
23 "only picked for her color and her race," close quote. Do you  
24 recall that one?

25 A. I recall that in the report vaguely.

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1 Q. You do not believe that was a racial appeal, correct?

2 A. Correct.

3 Q. In your view, saying that a Black woman was only picked  
4 for her job because of her color and her race, you do not  
5 think that that's a racial appeal, correct?

6 A. Sir -- and with great respect toward you -- the report  
7 looked at specific races. You're now going over a series of  
8 races and asking for my judgment. That is a different matter  
9 than what was reported.

10 What the focus of the -- of my report was looking at the  
11 allegation of how pervasive racial appeals are in this state.

12 So now you're bringing up a series of -- if I may, you're  
13 bringing up a series of campaigns and asking me whether they  
14 were racial appeals. They're not relevant to the report.

15 Q. Sir, you do not agree with that statement that Harris was  
16 only picked for her color and her race because you believe she  
17 was also selected because she was a woman, correct?

18 A. I think she was selected for a number of reasons. She --

19 Q. Can I --

20 A. So, I mean, so -- so in the deposition I said she was  
21 also selected for a woman. I could have added she was  
22 selected for a variety of reasons. That's how vice presidents  
23 are selected. I'm sorry if I sound too adamant in my tone.

24 Q. You wrote in your report that you found charges of racism  
25 in only five percent of the races you studied, but that was a

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1 mathematical error on your part. You, in fact, found racism  
2 charges in two out of 20 races that you analyzed which is  
3 10 percent of the races you analyzed, correct?

4 A. I thought we went over this in testimony.

5 Q. We went over it at the deposition, but now we're at  
6 trial.

7 You wrote in your report that charges of racism were  
8 reported in only five percent of the races you analyzed, but  
9 your math was wrong; you, in fact, found charges of racism in  
10 two out of the 20 races that you analyzed which is -- which is  
11 10 percent of those races, correct?

12 A. The -- that's what I said in deposition. I was thrown  
13 off. I didn't -- it was late in the day, you recall. I think  
14 I was looking at -- I think I looked at 20 races and that  
15 would be two campaigns each in each of those races, that's how  
16 we came up with five.

17 Q. Okay. And you've now added Mark Robinson, right, that's  
18 a different one. So now you have at least three, correct?

19 A. That is not -- so, yeah.

20 Okay. Go ahead. Proceed.

21 THE COURT: No, actually, he's not going to go  
22 ahead. 900 minutes.

23 Any redirect?

24 MR. LEWIS: Your Honor, we do not have any further  
25 questions for the witness.

1 THE COURT: All right.

2 The record will remain open for the supplemental  
3 reports.

4 Mr. Strach, anything else?

5 MR. STRACH: Your Honor, I would like to move in a  
6 few exhibits. I would like to move in LD49.

7 THE COURT: It'll be received.

8 MR. STRACH: LD50.

9 THE COURT: It'll be received.

10 MR. STRACH: LD72.

11 THE COURT: It'll be received.

12 MR. STRACH: LD73.

13 THE COURT: It'll be received.

14 MR. STRACH: And LD74.

15 THE COURT: It'll be received.

16 (Defendant's Exhibits Nos. 49, 50, 72 through 74 were  
17 admitted into evidence.)

18 THE WITNESS: Thank you, Judge.

19 THE COURT: Thank you. Please watch your step.  
20 Remember there's a step up and a step down.

21 The supplementation in accordance with the dates  
22 that we talked about at the pretrial.

23 MR. JONES: Yes, Your Honor. The parties have been  
24 talking about the dates and availability of experts. If it's  
25 okay with Your Honor, we'd like to have a day or maybe a

1 couple of days to get together. We'll file something with the  
2 proposed schedule.

3 THE COURT: Terrific. I appreciate how hard you'll  
4 have worked together and I appreciate you continuing to do  
5 that. I have more than a thousand cases so if you need a  
6 couple more days, that gives me a couple more days and that's  
7 fine.

8 So I appreciate y'all meeting and conferring and  
9 whatever schedule you come up with, I'll be fine with.

10 And I hope everyone is safe getting home. It's been  
11 a pleasure of sorts being with you this week. But I do wish  
12 y'all safe travels getting home.

13 We'll be in recess until Monday morning when we'll  
14 start a criminal term.

15 \* \* \*

16 (The proceedings concluded at 12:22 p.m.)  
17  
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25

1 UNITED STATE DISTRICT COURT  
2 EASTERN DISTRICT OF NORTH CAROLINA  
3

4 CERTIFICATE OF OFFICIAL REPORTER  
5

6 I, Amy M. Condon, CRR, RPR, CSR, Federal Official  
7 Court Reporter, in and for the United States District Court  
8 for the Eastern District of North Carolina, do hereby certify  
9 that pursuant to Section 753, Title 28, United States Code,  
10 that the foregoing is a true and correct transcript of the  
11 stenographically reported proceedings held in the  
12 above-entitled matter and that the transcript page format is  
13 in conformance with the regulations of the Judicial Conference  
14 of the United States.  
15  
16

17 Dated this 26th day of February, 2025.  
18

19 *Amy M. Condon*

20 /s/ Amy M. Condon  
21 Amy M. Condon, CRR, CSR, RPR  
22 U.S. Official Court Reporter  
23  
24  
25